

TEXAS PARKS AND WILDLIFE

**Contracting Branch
Infrastructure Division
4200 Smith School Road
Austin, Texas 78744**

INVITATION FOR BIDS

AND

CONTRACT DOCUMENTS

FOR

**PROJECT NUMBER 128294
THE TYLER NATURE CENTER
SMITH COUNTY, TEXAS**

ENTRY GATE REPAIRS

FEDERALLY FUNDED PROJECT

P-O-C:

Rose Esparza, Contract Manager, 512/389-4920

**ISSUE DATE: MAY 17, 2016
BIDS DUE NO LATER THAN
2:00 P.M, June 2, 2016**

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TEXAS PARKS AND WILDLIFE

NOTICE TO BIDDERS

Bids will be received by the Contracting Branch, Infrastructure Division, Texas Parks and Wildlife Department, 4200 Smith School Road, Austin, Texas 78744, **until 2:00 p.m., June 2, 2016** for Project #128294 entitled Entry Gate Repairs, located at The Tyler Nature Center, Smith County, Texas. The bid opening will be conducted in A-100 Conference Room. The estimated range of construction cost is less than \$9,000.00 – \$12,000.00.

Project includes: Furnish all labor, tools, equipment, materials and incidentals to demolish existing swing gate operators (2ea), controller, and associated control devices including wiring and provide/install new commercial gate operators, controller, and associated control devices complete with wiring and remote openers as a complete functioning working system.

Contractor must meet all minimum qualification requirements as identified in paragraph 44 of the Terms and Conditions of this solicitation package to be eligible for contract award.

Performance Period: All work shall be completed within 30 calendar days commencing on the date specified in the Notice to Proceed

For Bidding and Contract Documents (available at no charge) call 512/389-4442, email, contracting@tpwd.texas.gov, or visit TPWD's web site:
http://www.tpwd.state.tx.us/business/bidops/current_bid_opportunities

For technical information and information regarding administration of the contract, contact Contract Manager, Rose Esparza, 512/389-4920.

For upcoming projects bidding, visit the Electronic State Business Daily web site:
<http://esbd.cpa.state.tx.us> and the TPWD web site:
http://tpwd.texas.gov/business/bidops/current_bid_opportunities/construction/.

TEXAS PARKS AND WILDLIFE

INSTRUCTIONS TO BIDDERS

1. **BIDS:** Bids must be received in the Infrastructure Division of the Texas Parks and Wildlife Department (TPWD), Austin, Texas NO LATER THAN the date and time specified in the Notice to Bidders. Bids received after this time will not be considered and will be returned unreviewed. **Bidders are advised that TPWD's Headquarters Complex does not open until 8:00 A.M. Bidders should plan their delivery method accordingly.** Each bid shall be submitted on the Contractor's Bid form provided.

FAXED BIDS WILL NOT BE ACCEPTED. BIDS MUST BE ENCLOSED IN A SEALED ENVELOPE, BOX, OR CONTAINER CLEARLY MARKED ON THE OUTSIDE AS AN "OFFICIAL BID" AND SHALL INCLUDE THE FOLLOWING INFORMATION: PROJECT NUMBER, PROJECT DESCRIPTION, PROJECT LOCATION, BID OPENING DATE AND TIME.

Bids shall have all blanks fully and legibly completed including a price for all alternates and/or unit costs when listed under the base bids on which a bid is submitted. Failure to do so shall result in rejection of the bid. Corrections in the bidder's bid shall be legible and initialed. The bid form shall show no alterations or qualifications of any kind. **Bids must be signed by an individual who has the authority to legally bind the firm.** The Owner reserves the right to require a bidder to furnish documentary evidence of Bidder's signature authority.

Corrections, deletions, or additions to bids may be made by facsimile (FAX), provided such FAX are received in correct and comprehensive form prior to the opening time of bids and submit original within two (2) business days of submitted FAX. No telephonic instructions will be accepted. **FAX corrections, deletions or additions to bids shall be sent to FAX number: 512/389-4790, attention: Rose Esparza, Contract Manager.** This is the only number that will be used for receipt of corrections, deletions, or additions. TPWD shall NOT be responsible for failure of electronic equipment or operator error.

The Owner reserves the right to reject any or all bids and to waive any or all informalities in connection therewith. Owner does not bind itself to accept the lowest bid or any part thereof, and reserves the right to ask for new bids for the whole or parts. The mere opening and reading aloud of a bid shall not constitute the Owner's acceptance of the suitability of a bidder or a bid. The competency and responsibility of the bidders will be considered in making an award.

2. **BASIS OF AWARD:** Determination of the low bidder will be based on the lowest responsible base bid and/or a combination of the base bid and alternate bids. Alternates accepted will be considered in determining the low bidder, but the Owner does not obligate itself to accept an alternate or to accept alternates in any order listed unless otherwise stipulated elsewhere in the Bidding and Contract Documents.
3. **UNIT PRICE/ESTIMATED QUANTITY BIDS:** If the Bid furnished with this project requires a bid on a unit price/estimated quantity basis, the Bidder shall enter a unit price in the space provided therefor and a total item price based upon the estimated quantities shown on the bid form. Unit prices entered shall be the full price to Owner including materials, labor, services, taxes, bonds, rentals, overhead, profit, etc., for the work described. Quantities shown reflect measurements taken from the Drawings and are assumed correct for bidding purposes. Final contract price will be based on actual quantities of work installed as determined by Owner and Contractor upon completion of the work.

Award of contract shall be based upon the summation of the various unit price bids, but in case of error the unit prices shall govern and computations will be checked for accuracy before award is made.

Prices will also be reviewed for balance prior to award, and obvious imbalance in favor of work scheduled for early completion or subject to significant expansion after award may be grounds for rejection of the bid.

4. **BID SECURITY:** Unless otherwise stipulated in the Bidding and Contract Documents, only projects in which the total contract price exceeds \$25,000.00, will require bid security. **Bids exceeding \$25,000.00 must be accompanied by a bid bond, certified check or cashier's check drawn to the order of the Texas Parks and Wildlife Department for not less than five percent (5%) of the total amount of the bid (including total of all separate bids for one or more projects bid and multiple base bids and/or alternate bids and/or optional bids and/or allowances).** Therefore, to ensure adequate bid security, bidders should calculate bid security based on the highest possible monetary award. All bonds submitted shall be the original form bearing original signatures and seal. Certified checks and cashier checks must be originals. No other forms of bid security or checks will be accepted. **Bid will be rejected if the appropriate security is not furnished in the form specified above and by the time set for the bid opening.**

Bid security for three (3) lowest bidders may be retained by Owner until the successful bidder executes the contract, and if required, furnishes bonds and certificates of insurance. All other bid security will be returned as soon as practical after bid opening.

Bid security for the successful bidder will be returned following execution of the contract and submission of satisfactory bonds and insurance. If the successful bidder fails to return the signed contract (and bonds and certificate of insurance when required) within the time specified, the bid security may be forfeited not as a penalty but as liquidated damages.

5. **INSURANCE REQUIREMENTS:** The successful Contractor must certify the minimum insurance coverages as set forth in Exhibit A of the solicitation package entitled "Insurance Requirements". The required insurance information shall be submitted as directed within **ten (10) calendar days** following Notice of Intent to Award. Failure to timely meet this requirement may result in disqualification of the bid and forfeiture of the bid security, if any. In such circumstances, TPWD shall be authorized to proceed with award to the next lowest, responsive and responsible bidder.
6. **BONDING REQUIREMENTS:** If the total contract price exceeds \$25,000.00, a Payment Bond must be furnished by the successful Contractor. All bonds submitted shall be the original form bearing original signatures and seal. (See Terms and Conditions)
7. **DISCREPANCIES:** Should any Bidder find discrepancies between the Bidding and Contract Documents, or should Bidder be in doubt as to their exact meaning, Bidder should notify the Owner at once. The Owner may then, at its option, issue addenda clarifying same. The Owner will not be responsible for oral instructions or for misinterpretation of Bidding and Contract Documents.
8. **ADDENDA:** The Owner reserves the right to issue addenda at any time prior to the bid opening. (See also Terms and Conditions). All addenda shall be acknowledged as received on the Contractor's Bid Form. **BIDDER'S FAILURE TO ACKNOWLEDGE RECEIPT OF ADDENDA MAY RESULT IN REJECTION OF BID.**
9. **LABOR LAWS:** Contractors must comply with all labor laws established by State and Federal statutes. (See also Terms and Conditions).
10. **STATE SALES TAX:** The Owner qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Tax Code (Title 2, Chapter 151, Subsection 151.309).

The Contractor shall comply with applicable provisions of Chapter 34, Rules 3.291 and 3.357 of the Texas Administrative Code, or other procedures as may be prescribed by the State Comptroller of Public Accounts.
11. **LIQUIDATED DAMAGES:** This contract contains provisions for liquidated damages. (See Terms and Conditions)

12. **CONTRACTOR QUALIFICATIONS:** A Contractor's Statement of Qualifications must be submitted with the bid. Failure to properly complete and provide a Contractor's Statement of Qualifications shall be cause for the Contractor's bid being rejected by the Owner. The Owner may make such investigations as necessary to determine the ability of the Contractor to perform the work, and reserves the right to reject any bid if the evidence submitted and/or obtained through investigation fails to satisfy the Owner that the Contractor is properly qualified to carry out the obligations of the Agreement.
13. **TEXAS IDENTIFICATION NUMBER:** Prior to any payment by Owner for the work or services required herein, the Contractor must be assigned a TEXAS IDENTIFICATION NUMBER (TIN) by the State Comptroller of Public Accounts. A space has been provided on the Contractor's Price Proposal Form for provision of a TEXAS IDENTIFICATION NUMBER if available. If Contractor has not been assigned a TIN, the application form provided in the Bidding and Contracting Documents shall be submitted with the Proposal.
14. **SPECIAL REQUIREMENTS:** Bidders should refer to all of the Bidding And Contract Documents for special project requirements, if any, that may affect bidding.
15. **OPTION FOR INCLUSION OF ADDITIONAL WORK:** The Owner may require the performance of additional work described in the Contractor's Bid as an Option Item at the price(s) specified by giving written notice to the Contractor within the time specified. Performance of said additional work will be directed by Change Order.
16. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION:** If this project is a federally-assisted project, the Bidding And Contract Documents will contain appropriate federal contract provisions. Such provisions include requirements that bidders provide certification regarding debarment, suspension, ineligibility and voluntary exclusion. If required for this project, a certification form is included herein and must be completed and submitted with the bid. Failure to provide such certification with the bid may result in rejection of the bid.
17. **ENERGY POLICY AND CONSERVATION ACT:** Contractor shall comply with the mandatory standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat.871).
18. **BUY AMERICAN ACT:** (a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic construction material. (b) The Contractor agrees that only domestic construction material will be used by the contractor, subcontractors, materialmen, and suppliers in the performance of this contract, except for foreign construction materials, if any, listed in this contract.
19. **FEDERALLY FUNDED PROJECT:** This is a federally assisted project. The Bidding and Contract documents contain federal contract provisions, including certain forms that must be completed and returned with the bid, including requirements that bidders provide certification regarding debarment, suspension, ineligibility and voluntary exclusion. Please refer to the Terms and Conditions, Paragraph 63 and Exhibit B for more information.

**CONTRACTOR'S
BID
SUBMITTALS**

TEXAS PARKS AND WILDLIFE

CONTRACTOR'S BID

Bids will be received by Texas Parks and Wildlife
for

**Project No. 128294 – Entry Gate Repairs at
The Tyler Nature Center, Smith County, Texas**

Send bids to arrive prior to the deadline stated below to:

**Texas Parks and Wildlife Department
Contracting and Project Management Systems Branch
Infrastructure Division
4200 Smith School Road
Austin, Texas 78744
(512/389-4442)**

ATTENTION: Rose Esparza

**BIDS WILL BE OPENED AT 2:00 P.M., June 2, 2016
A-100 CONFERENCE ROOM**

Bidders should visit the site and be thoroughly familiar with job conditions prior to submitting a bid. Visits shall be scheduled with Construction Manager **Tom Synovec, 512/627-4187**. Failure to give proper consideration in the bid to site conditions will not constitute grounds for additional compensation.

DESCRIPTION OF WORK: Demolish existing swing gate operators (2 each), controller, and associated control devices including wiring and provide/install new commercial gate operators, controller, and associated control devices complete with wiring and remote openers as a complete functioning working system.

Bid includes any and all appurtenant work and items necessary for a fully functional and operational system, **COMPLETE AND IN PLACE**.

The Contractor shall complete all work required within Thirty (30) calendar days from date specified in Notice to Proceed.

I, the undersigned, hereby propose to furnish all labor, materials and equipment necessary to perform the work described herein for the above referenced project for the following sum(s):

Bid Item	Description	Total Lump Sum Price
1	Furnish all labor, tools, equipment, materials and incidentals Demolish existing swing gate operators (2ea), controller, and associated control devices including wiring and provide/install new commercial gate operators, controller, and associated control devices complete with wiring and remote openers as a complete functioning working system.	\$
<hr/> <p>(Total Base Bid Price written in words)</p>		

Option Item	Additive Alternate Description	Total Additive Alternate Price
1	Provide remote wireless programming of the controller gate openings/closings to facilitate special events and holidays during the year. Two (2) remote programming devices will be required. Entry access shall be made by the use of remote wireless button controllers and one post mounted keypad. The keypad shall be mounted on an L-shaped non-corrosive metal post supported from a new concrete base. The post shall project the keypad out to facilitate punching keys with an outstretched arm from a vehicle. The keypad height shall minimize damage from vehicle side mirrors. The keypad and keypad keys shall be lighted or illuminated for nighttime use. Provide new underground conduit with power to the new keypad. The keypad should be battery powered for 24/7 use but provided with power to recharge the batteries eliminating recurring maintenance.	\$
2	A. Provide an additive cost per unit with batteries and visor clip included for TPWD Divisions or individuals to purchase battery powered remote button controller to open the gate for vehicle entry. The device shall be designed to fasten to the vehicle visor.	\$
	B. Provide an additive cost per unit with batteries included for TPWD Divisions or individuals to purchase small battery powered remote controllers designed to be attached to vehicle key rings.	\$
	C. Provide a new Knox Box with Lock Keyed to the local fire department keying to allow emergency access. The Knox Box shall be hard wired to the controller and may be either push button or key operated but shall not rely on a battery to open the gates.	\$
	D. Provide a vehicle exit sensor system to open the gates to allow vehicle to exit the nature center. The type of sensor may be pressure type, light beam breaking, magnetic or other technical design. However, in no case; the sensor shall not initiate gate openings for pedestrians or animals. The sensor shall be mounted on a non-corrosive post supported by a concrete base.	\$
Total Additive Alternate 1 and Additive Alternate 2A-2D Price		\$
<hr/> (Total Additive Alternate 1 and Additive Alternate 2A-2D written in words)		

Total Base Bid Item 1, Additive Alternate 1 and Additive Alternate 2A-2D Price	\$
<hr/> (Total Base Bid Price, Additive Alternate 1 and Additive Alternate 2A-2D written in words)	

EACH Bid ITEM includes any and all appurtenant work and items necessary for a fully functional and operational systems, COMPLETE AND IN PLACE, IN ACCORDANCE WITH THE BIDDING AND CONTRACT DOCUMENTS.

BASE BID and Additive Alternates will be evaluated and determination of the low bidder will be based on responsiveness and responsibility of the bidder and on the lowest total base bid. HOWEVER, THE OWNER RESERVES THE RIGHT TO AWARD TO THE LOW BIDDER ANY COMBINATION OF BID ITEMS OR TO REJECT ALL BIDS.

BIDDER UNDERSTANDS AND ACKNOWLEDGES THAT BIDDER MUST MEET THE MINIMUM QUALIFICATION AND/OR EXPERIENCE REQUIREMENTS SET FORTH IN PARAGRAPH 44 OF THE TERMS AND CONDITIONS TO

BE ELIGIBLE FOR AWARD OF THIS CONTRACT. BIDDER, BY SIGNING THIS BID, AFFIRMS THAT BIDDER MEETS SUCH MINIMUM REQUIREMENTS. FAILURE TO MEET ANY OF THE MINIMUM QUALIFICATIONS SHALL RESULT IN REJECTION OF THE BID.

BIDDER UNDERSTANDS AND ACKNOWLEDGES THAT THIS IS A FEDERALLY ASSISTED PROJECT AND THAT CERTAIN AFFIRMATIONS ARE REQUIRED TO BE ELIGIBLE FOR AWARD. SEE TERMS AND CONDITIONS PARAGRAPH 63 and EXHIBIT B.

The undersigned further agrees that, if awarded the Contract, the work will be completed within Thirty (30) calendar days commencing on the date specified in the Notice to Proceed

The undersigned agrees that when written notice of bid acceptance is furnished by the Owner within sixty (60) calendar days after the bid opening date, the undersigned will, within ten (10) days from receipt of such notice, execute and deliver the contract and all required bonds, certificates of insurance, and PR-1 and PR-2 submittals to the Owner. Failure to timely provide the insurance certificate, bonds, and submittals shall be grounds for disqualification of bid and forfeiture of bid security, if any. In such circumstances, TPWD shall be authorized to proceed with award to the next lowest, responsive, responsible bidder.

If the above bid amount exceeds \$25,000.00, the undersigned shall include herewith security in the form of a bid bond, certified check, or cashier's check for an amount not less than five percent (5%) of the total amount of the bid to be awarded by Owner, unless otherwise stipulated in the Terms and Conditions. To ensure adequate bid security, bidders should calculate bid security based on the total amount of all base bids plus all additive alternate bids (if any). The bid security will be returned to or forfeited by the undersigned in accordance with the Bid Security provision in the Instructions to Bidders. The undersigned further agrees that this bid security is the appropriate measure of liquidated damages which the Owner will sustain by the failure of the undersigned to execute and deliver said contract and required documents.

The undersigned agrees that this proposal will not be withdrawn for a period of sixty (60) calendar days from the date set for the bid opening, and the undersigned further agrees that the bid security will be forfeited in the event this proposal is withdrawn before expiration of said sixty (60) calendar days.

By the signature hereon affixed, the bidder hereby certifies that neither the bidder, nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01 et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business.

Pursuant to Texas Government Code, Title 10, Subchapter A, §2155.004 (a), Bidder acknowledges that Bidder has not received compensation for participation in the preparation of the specifications for this project.

Pursuant to Texas Government Code, Title 10, Subchapter A, §2155.004 (b), §2155.006 (c), and Subchapter B, §2261.053 (c), Bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

By signing this bid, Bidder certifies that if a Texas address is shown as the address of the Bidder, Bidder qualifies as a Texas Resident bidder as defined in Texas Administrative Code, Title 1, Part 5, Chapter 111, Subchapter A, §111.2 (10).

By signature hereon, the bidder hereby certifies he is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Tax Code. Making a false statement as to corporate tax status is a material breach of contract.

Bidder certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that bidder is in compliance with the State of Texas Statutes and Rules relating to procurement and that bidder is not listed on the Federal Government's Terrorism Watch List as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

By signing this bid, a bidder affirms that he has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted bid.

Bidder agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support, which is owed to the State of Texas.

Bidder agrees to comply with Texas Government Code, Title 10, Subtitle D, §2155.4441, relating to use of services contracts for products produced in the State of Texas.

By signing this bid, Bidder acknowledges and understands that the acceptance of funds by the Bidder or any other entity or person directly under this Contract, or indirectly through a subcontract under this Contract, shall constitute acceptance of the authority of the State Auditor's Office, Comptroller or other agency of the State of Texas, TPWD or any successor agency, to conduct an audit or investigation in connection with those funds. The Bidder further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including providing access to any information the state auditor considers relevant to the investigation or audit. The Bidder shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through the Bidder and the requirement to cooperate is included in any subcontract it awards.

If applicable, pursuant to Texas Family Code, Title 5, Subtitle D, §231.006(d), regarding child support, the Bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, Bidder must provide, in the spaces(s) below, the name and Social Security number of an individual owner, a sole proprietor and all partners, shareholders, or owners with an ownership interest of at least 25% of the business entity prior to award of contract.

Name	SSN	%
Name	SSN	%
Name	SSN	%
Name	SSN	%

Bidder certifies that they are in compliance with Texas Government Code, Title 6, §669.003, relating to contracting with executive head of a State agency. If §669.003 applies, Bidder will complete the following information in order for the bid to be evaluated:

Name of former executive:

Name of State agency:

Date of separation from State agency:

Position with Bidder:

Date of employment with Bidder:

Bidder acknowledges receipt of the following addenda: _____
WARNING: BIDDER'S FAILURE TO ACKNOWLEDGE RECEIPT OF ADDENDA MAY RESULT IN REJECTION OF BID.

BIDDER'S AFFIRMATION: SIGNING THIS BID WITH A FALSE STATEMENT IS A MATERIAL BREACH OF CONTRACT AND SHALL VOID THE SUBMITTED BID OR ANY RESULTING CONTRACTS, AND THE BIDDER SHALL BE REMOVED FROM ALL BID LISTS.

Name of Contracting Firm

By _____
Authorized Signature Date

Address

Printed Name

City State Zip

Title

(Area Code) Phone Number

(Area Code) Phone Number

Email address

(Area Code) FAX Number

Texas Identification Number

(Area Code) Cell Number

CONTRACTOR'S QUALIFICATION STATEMENT

COMPLETE AND SUBMIT WITH BID

PROJECT NO.	128294	LOCATION:	The Tyler Nature Center	BID DATE:	June 2, 2016
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FIRM			
ADDRESS			
PHONE		FAX	
E-MAIL			
Individual _____ Partnership _____ Corporation _____			
If incorporated, under the laws of the State of _____ with principal place of business in _____			

PRINCIPALS IN FIRM AND YEARS EXPERIENCE IN CONSTRUCTION:

NAME	TITLE	PHONE	NO. OF YEARS

FIRM HISTORY: List firm history below including any other business names used.

From		to		Firm Name	
From		to		Firm Name	
From		to		Firm Name	
From		to		Firm Name	

Has firm, under its current or former name(s) ever failed to complete a project, defaulted on a contract, or been engaged in litigation over a contract? ____ Yes ____ No. If so, state particulars of most recent occurrence on separate sheet(s) and attach to this form.

CONSTRUCTION CAPABILITIES:

FIRM'S AVERAGE ANNUAL CONSTRUCTION VOLUME \$ _____ **Percentage of this volume by construction categories:**

Building _____%	Mech.-HVAC _____%	Hwy/Roads _____%	Other _____%
Electrical _____%	Utility Lines _____%	Earthwork _____%	Other _____%
Plumbing _____%	Utility Plants _____%	Site Work _____%	Other _____%

FINANCIAL CAPABILITIES :

FINANCIAL INFORMATION SUMMARIZED BELOW WAS PREPARED BY:

ACCOUNTING FIRM		Address	
City/State/Zip		E-Mail	
Prepared by (name):		Phone	

FINANCIAL STATEMENT SUMMARY:

Current Assets		Current Liabilities	
Fixed Assets		Net Worth	
Total Assets		Total Liab. & Net Worth	

BONDING REFERENCES: Indicate agency/surety through which bonding will be obtained.

AGENCY		Address	
City/State/Zip		E-Mail	
Phone		Fax	
Agent's Name		Agent's Phone	
Name of Power of Attorney from Bond Company		Expiration Date	

BONDING COMPANY		Address	
City/State/Zip			
Phone		Fax	
Name of Representative		Phone	

BANKING REFERENCES :

BANK		Address	
City/State/Zip		E-Mail	
Bank Contact Name		Phone	Fax
Checking Acct. Numbers			
Loan Acct. Numbers			
CD/MM Acct. Numbers			

EXPERIENCE RECORD:

LIST MINIMUM OF FIVE (5) PROJECTS (ATTACH ADDITIONAL SHEETS IF NECESSARY) THAT ARE AT LEAST 50% COMPLETED OR HAVE BEEN COMPLETED WITHIN THE LAST THREE (3) YEARS. PROJECTS SIMILAR TO THE ONE BEING BID AND/OR PUBLIC PROJECTS ARE PREFERRED.

1.

Project Description			
Project Location		Contract Amount	Beginning \$ Ending: \$
Project Owner (Firm/Agency)		Address	
City		State	Zip
Project Owner's Rep familiar with project		Phone	Fax
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)	
If Project is still under construction, then provide percentage complete		If completed, date	
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each.			
Project Description and why it is comparable to this contract.			
Project A/E Name		A/E Phone	

2.

Project Description			
Project Location		Contract Amount	Beginning \$ Ending: \$
Project Owner (Firm/Agency)		Address	
City		State	Zip
Project Owner's Rep familiar with project		Phone	Fax
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)	
If Project is still under construction, then provide percentage complete		If completed, date	
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each.			
Project Description and why it is comparable to this contract.			
Project A/E Name		A/E Phone	

EXPERIENCE RECORD: (CONTINUED)

3.

Project Description			
Project Location		Contract Amount	Beginning \$ Ending \$
Project Owner (Firm/Agency)		Address	
City		State	Zip
Project Owner's Rep familiar with project		Phone	Fax
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)	
If Project is still under construction, then provide percentage complete		If completed, date	
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each.			
Project Description and why it is comparable to this contract.			
Project A/E Name		A/E Phone	

4.

Project Description			
Project Location		Contract Amount	Beginning \$ Ending \$
Project Owner (Firm/Agency)		Address	
City		State	Zip
Project Owner's Rep familiar with project		Phone	Fax
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)	
If Project is still under construction, then provide percentage complete		If completed, date	
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each.			
Project Description and why it is comparable to this contract.			
Project A/E Name		A/E Phone	

EXPERIENCE RECORD: (CONTINUED)

5.

Project Description			
Project Location		Contract Amount	Beginning \$ Ending \$
Project Owner (Firm/Agency)		Address	
City		State	Zip
Project Owner's Rep familiar with project		Phone	Fax
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)	
If Project is still under construction, then provide percentage complete		If completed, date	
If contract time extensions were added to the contract as a result of Bidder's responsibilities, provide a short explanation of each.			
Project Description and why it is comparable to this contract.			
Project A/E Name		A/E Phone	

HUB AND TPWD CONTRACTING EXPERIENCE:

Please indicate if the firm is a Texas Certified Historically Underutilized Business (HUB): ☐ YES ☐ NO.

If yes, please indicate gender and ethnicity: Gender: ☐ Male, ☐ Female

Ethnicity (Asian Pacific Islander, Black American, Hispanic American, Native American, American Woman or Service Disabled Veteran.)

Has firm ever done business with TPWD? ☐ YES ☐ NO.

If yes, list the most recent project number(s):

I hereby certify that all information provided above and attached is true and correct. Furthermore, I hereby authorize you to contact the references listed above and authorize release of information from such references to Texas Parks and Wildlife Department. I hereby certify that my firm is not debarred or suspended from performing work for the U.S.A. or the State of Texas.

Name of Firm

Signature of Owner or Officer


Title of Person Signing

Date

APPLICATION FOR TEXAS IDENTIFICATION NUMBER

• See instructions on back

For Comptroller's use only

1. Is this a new account? <input type="checkbox"/> YES Mail Code 000 <input type="checkbox"/> NO Enter Mail Code _____ Agency number _____ Complete Sections 1 - 5 Complete Sections 1, 2 & 5	
SECTION 1	2. TEXAS IDENTIFICATION NUMBER (TIN) - Indicate the type of number you are providing to be used for your TIN <input type="checkbox"/> 1 - Employer Identification Number (EIN) <input type="checkbox"/> 2 - Social Security number (SSN) Enter the number indicated _____ <input type="checkbox"/> 3 - Comptroller's assigned number (FOR STATE AGENCY USE ONLY) 3. Are you currently reporting any Texas tax to the Comptroller's office such as sales tax or franchise tax? <input type="checkbox"/> YES <input type="checkbox"/> NO If "YES," enter Texas Taxpayer Number _____
SECTION 2	PAYEE INFORMATION (Please type or print) 4. Name of payee (Individual or business to be paid) _____ 5. Mailing address where you want to receive payments _____ 6. (Optional) _____ 7. (Optional) _____ 8. (Optional) _____ 9. City _____ State _____ ZIP Code _____ 10. Payee telephone number (Area code and number) (_____) _____ SIC code _____ Security type code (0, 1, 2) _____ Zone code _____
SECTION 3	11. OWNERSHIP CODES - Check only one code by the appropriate ownership type that applies to you or your business. <div style="display: flex; justify-content: space-between;"> <div style="width: 48%;"> <input type="checkbox"/> I - Individual Recipient (not owning a business) <input type="checkbox"/> S - Sole Ownership (Individual owning a business): If checked, enter the owner's name and Social Security number (SSN) Owner's name _____ SSN 2 _____ </div> <div style="width: 48%;"> <input type="checkbox"/> L - Texas Limited Partnership: If checked, enter the Texas File Number _____ <input type="checkbox"/> T - Texas Corporation: If checked, enter the Texas File Number _____ <input type="checkbox"/> A - Professional Association: If checked, enter the Texas File Number _____ <input type="checkbox"/> C - Professional Corporation: If checked, enter the Texas File Number _____ <input type="checkbox"/> O - Out-of-State Corporation <input type="checkbox"/> G - Governmental Entity <input type="checkbox"/> U - State agency / University <input type="checkbox"/> F - Financial Institution <input type="checkbox"/> R - Foreign (out of U.S.A.) </div> </div> <div style="margin-top: 10px;"> <input type="checkbox"/> P - Partnership: If checked, enter two partner's names and Social Security numbers (SSN). If a partner is a corporation, use the corporation's Employer Identification Number (EIN). Name _____ SSN/EIN _____ Name _____ SSN/EIN _____ <input type="checkbox"/> N - Other: If checked, explain. _____ </div>
SECTION 4	12. Payment Assignment? <input type="checkbox"/> YES <input type="checkbox"/> NO <i>Note: A copy of the assignment agreement between payees must be attached.</i> Assignee name _____ Assignee TIN _____ Assignment date _____
SECTION 5	13. Comments _____ <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 60%;"> 14.  _____ Authorized signature (Applicant or authorized agent) </div> <div style="width: 35%;"> Date _____ </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 30%;"> 15. Agency name _____ </div> <div style="width: 35%;"> Prepared by _____ </div> <div style="width: 35%;"> Phone (Area code and number) _____ </div> </div>

APPLICATION FOR TEXAS IDENTIFICATION NUMBER



SUSAN COMBS • TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

Statewide Fiscal Services

Austin, Texas 78774-0100

WHO MUST SUBMIT THIS APPLICATION -

This application must be submitted by every person (sole owner, individual recipient, partnership, corporation or other organization) who intends to bill agencies of the state government for goods, services provided, refunds, public assistance, etc. The Texas Identification Number (TIN) will be required on all maintenance submitted by state agencies. The use of this number on all billings will reduce the time required to process billings to the State of Texas.

NOTE: *To expedite processing of this application, please return the completed application to the state agency with which you are conducting business. It is not necessary for the payee to sign or complete this form. The state agency representative may complete the form for the payee.*

FOR ASSISTANCE -

For assistance in completing this application, please call the State Comptroller's office at (800) 531-5441, ext. 3-3660. The Austin number is (512) 463-3660.

NOTICE TO STATE AGENCIES -

When this form is used to set up additional mail codes, Sections 1, 2 and 5 must be completed. State agencies may refer to the Texas Identification Number System (TINS) Guide at <https://fm.x.cpa.state.tx.us/fmx/pubs/tins/tinsguide> for additional information.

GENERAL INSTRUCTIONS -

- Do not use dashes when entering Social Security, Employer Identification or Comptroller's assigned numbers.
- Disclosure of your Social Security number is required. This disclosure requirement has been adopted under the Federal Privacy Act of 1974 (5 U.S.C.A. sec. 552a(note)(West 1977), the Tax Reform Act of 1976 (42 U.S.C.A. sec. 405(c)(2)(C) (West 1992), TEX. GOV'T. CODE ANN. sec. 403.055 (Vernon 2005) and TEX. GOV'T. CODE ANN. sec. 403.056 (Vernon 2005). Your Social Security number will be used to help the Texas Comptroller of Public Accounts administer the state's tax laws and for other purposes. See Op Tex. Att'y Gen. No. H-1255 (1978).

SPECIFIC INSTRUCTIONS -

SECTION 1 - TEXAS IDENTIFICATION NUMBER

EIN: For all ownership codes other than Individual Recipient listed in Section 3, enter a 9-digit Employer Identification Number (EIN) issued by the Internal Revenue Service.

SSN: For Individual Recipient or Sole Owner without an EIN, enter your 9-digit Social Security number (SSN) issued by the Social Security Administration.

Comptroller Assigned Number: FOR STATE AGENCY USE ONLY. A Comptroller Assigned Number is an ID number that is given to a state agency that needs to pay either a foreign entity or a foreign individual who does not have an EIN or SSN.

Are you currently reporting any Texas tax to the Comptroller's office such as sales tax or franchise tax? If "YES," enter Texas Taxpayer Number.

SECTION 2 - PAYEE INFORMATION

Items 4 through 8 - Enter the complete name and mailing address where you want payments to be received. Names of individuals must be entered first name first. Each line cannot exceed 50 characters including spaces. If the name is more than 50 characters, continue the name in Item 5 and begin the address in Item 6.

Item 9 - Enter the city, state and ZIP Code.

Item 10 - Enter payee telephone number.

SIC code, Security type code and Zone code: FOR STATE AGENCY USE ONLY.

SECTION 3 - OWNERSHIP CODES

Item 11 - Check the box next to the appropriate ownership code and enter additional information as requested. Please check only one box in this section. The Secretary of State's office may be contacted at (512) 463-5555 for information regarding Texas file numbers.

SECTION 4 - PAYMENT ASSIGNMENT

Item 12 - Use when one payee is assigning payment to another payee. When setting up an assignment payment, fill out this section completely and include a copy of the assignment agreement between the assignee and the assignor.

SECTION 5 - COMMENTS AND IDENTIFICATION

Item 13 - Enter any additional information that may be helpful in processing this application. Items 14 and 15 are for identification purposes. Always complete the identification section, including comments and authorized signature.

Under Ch. 559, Government Code, you are entitled to review, request and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at the address or phone numbers listed on this form.

U.S. Department of the Interior

Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying

Persons signing this form should refer to the regulations referenced below for complete instructions:

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions - **The prospective primary participant further agrees by submitting this proposal that it will include the clause titled, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.** See below for language to be used or use this form certification and sign. (See Appendix A of Subpart D of 43 CFR Part 12.)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions - (See Appendix B of Subpart D of 43 CFR Part 12.)

Certification Regarding Drug-Free Workplace Requirements - Alternate I. (Grantees Other Than Individuals) and Alternate II. (Grantees Who are Individuals) - (See Appendix C of Subpart D of 43 CFR Part 12)

Signature on this form provides for compliance with certification requirements under 43 CFR Parts 12 and 18. The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of the Interior determines to award the covered transaction, grant, cooperative agreement or loan.

PART A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters- Primary Covered Transactions

CHECK _____ IF THIS CERTIFICATION IS FOR A PRIMARY COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PART B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

CHECK _____ IF THIS CERTIFICATION IS FOR A LOWER TIER COVERED TRANSACTION AND IS APPLICABLE.

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

PART C: Certification Regarding Drug-Free Workplace Requirements

CHECK___IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS NOT AN INDIVIDUAL.

Alternate I. (Grantees Other Than Individuals)

A. The grantee certifies that it will or continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted --
 - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a) (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check___if there are workplaces on files that are not identified here.

PART D: Certification Regarding Drug-Free Workplace Requirements

CHECK___IF THIS CERTIFICATION IS FOR AN APPLICANT WHO IS AN INDIVIDUAL.

Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to the grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

PART E: Certification Regarding Lobbying
Certification for Contracts, Grants, Loans, and Cooperative Agreements

*CHECK ___ IF CERTIFICATION IS FOR THE AWARD OF ANY OF THE FOLLOWING AND
THE AMOUNT EXCEEDS \$100,000: A FEDERAL GRANT OR COOPERATIVE AGREEMENT;
SUBCONTRACT, OR SUBGRANT UNDER THE GRANT OR COOPERATIVE AGREEMENT.*

*CHECK ___ IF CERTIFICATION FOR THE AWARD OF A FEDERAL
LOAN EXCEEDING THE AMOUNT OF \$150,000, OR A SUBGRANT OR
SUBCONTRACT EXCEEDING \$100,000, UNDER THE LOAN.*

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

As the authorized certifying official, I hereby certify that the above specified certifications are true.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL

TYPED NAME AND TITLE

DATE

ASSURANCES - CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the Awarding Agency. Further, certain Federal assistance awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will not dispose of, modify the use of, or change the terms of the real property title, or other interest in the site and facilities without permission and instructions from the awarding agency. Will record the Federal interest in the title of real property in accordance with awarding agency directives and will include a covenant in the title of real property acquired in whole or in part with Federal assistance funds to assure non-discrimination during the useful life of the project.
4. Will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.
5. Will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms with the approved plans and specifications and will furnish progress reports and such other information as may be required by the assistance awarding agency or State.
6. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
7. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
8. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
9. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
10. Will comply with all Federal statutes relating to non-discrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

11. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal and federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
12. Will comply with the provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
13. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333) regarding labor standards for federally-assisted construction subagreements.
14. Will comply with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
15. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
16. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
17. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).
18. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
19. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL		TITLE
APPLICANT ORGANIZATION		DATE SUBMITTED

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment,. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10.
 - (a) Enter the full name, address, city State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
 - (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, and Middle Name (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minute per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ Quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known:		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity <i>(if individual, last name, first name, MI):</i> 		b. Individuals Performing Services <i>(including address of different from No. 10a.)</i> <i>(last name, first name, MI):</i>
<i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>		
11. Amount of Payment <i>(check all that apply):</i> \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment <i>(check all that apply):</i> <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____	
12. Form of Payment <i>(check all that apply):</i> <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____	14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11.: <i>(attach Continuation Sheet(s) SF-LLL-A, if necessary)</i>	
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form - LLL

CONDITIONS OF THE CONTRACT

TEXAS PARKS AND WILDLIFE

TERMS AND CONDITIONS

(Construction)

1. **DEFINITIONS:** As used throughout this contract, the following terms have the meaning set forth below:
 - (a) **Owner-**The Texas Parks and Wildlife Department acting on behalf of the State of Texas.
 - (b) **Owner's Designated Representative (ODR) -** the individual assigned by the Owner to act on its behalf and to undertake certain activities as specifically outlined in the Contract. The ODR is the only party authorized to direct changes to the scope, cost, or time of the contract. For the purposes of this contract, the ODR shall be Owner's, Tony Bettis, Minor Repair Project Manager
 - (c) **Contractor-** The individual, corporation, limited liability company, partnership, firm, or other entity that has contracted to furnish materials and to perform the Work under the contract with the Owner.
 - (d) **Contract-** means the entire agreement between the Owner and the Contractor, including all of the Contract Documents.
 - (e) **Contract Documents-** means those documents identified as a component of the agreement (contract) between the Owner and the Contractor. These may include, but are not limited to, Drawings, Specifications, General Conditions, and all pre-bid and/or pre-proposal addenda.
2. **SITE:** The site of the work is The Tyler Nature Center, Smith County, Texas.
3. **DESCRIPTION OF WORK:** Furnish all labor, materials, tools, equipment and incidentals necessary for performance of all work associated with Project Number 128294, Entry Gate Repairs at the Tyler Nature Center as shown on the drawings and as specified in the Bidding and Contract Documents.
4. **PERFORMANCE TIME:** The Contractor shall complete all work, including clean-up required by the contract **within Thirty (30) calendar days** after the date specified in the Notice to Proceed.
5. **INQUIRIES:** All inquiries in regard to the Bidding and Contract Documents, to include any discrepancies thereto and administration of the contract, should be directed to **Rose Esparza, Contract Manager, 512/389-4920.**
6. **EXAMINATION OF SITE:** Bidders should visit the site and be thoroughly familiar with job conditions such as the location, accessibility, and general character of the site and/or building prior to submitting a bid. Visits shall be scheduled with **Tom Synovec, Construction Manager, 512/627-4187.** Failure to give proper consideration in the bid to site conditions will not constitute grounds for additional compensation.
7. **VENUE:** Venue is hereby fixed in Travis County, Texas.
8. **LABOR, MATERIALS, AND WORKMANSHIP:**
 - (a) Unless otherwise specified herein, the Contractor shall furnish and pay for all labor, materials, equipment, tools, construction equipment, and machinery, water, heat, utilities (unless otherwise specified in the Bidding and Contract Documents), transportation, and other facilities and services necessary for the proper execution and completion of this contract. All materials incorporated in the work shall be new and of the quality specified, and all work shall be performed in a skillful and workmanlike manner. Where manufacturer's names are mentioned in these contract documents, it has been done in order to establish a standard of quality and construction, not to preclude the use of equal or superior materials or products of other manufacturers. However, substitutions must have Owner's prior approval.
 - (b) Unless otherwise indicated in the Contract Documents, equipment and material shall be installed in accordance with recommendations of the manufacturer to include such tests as manufacturer recommends. Both materials and workmanship shall be subject to the inspection of the Owner or its representative, who will require the Contractor to correct defective workmanship or material without cost to the Owner.

9. INTENT OF THE CONTRACT DOCUMENTS:

- (a) The intent of the Bidding and Contract Documents is to include all of the work for the contract price and within the contract time. All Bidding and Contract Documents are to be considered as cooperative. All work not specified and/or not shown on the drawings but which is necessary for the completion and/or functioning and operation of the project, shall be understood and implied as part of the contract to be performed by the Contractor for the contract price. Such work shall be executed by the Contractor in the same manner and with the same character of material as other portions of the contract without extra compensation.
- (b) It is the intention of the Bidding and Contract Documents to call for finished work, tested, and ready for operation. Any apparatus, material or work described in the Bidding and Contract Documents and any incidental accessories necessary to make the work complete in all respects and ready for operation (even though not particularly specified) shall be furnished, delivered, and installed by the Contractor without additional expense to the Owner. Minor details not usually shown or specified but necessary for proper installation and operation are included in the work just as if therein specified or shown.
- (c) The Drawings depict the location and quantity of elements of the work. The specifications indicate quality. All documents are intended to be complementary to produce the Work. Requirements of the specifications not included in the drawings or schedules or shown on the drawings and/or schedules and not included in the specifications shall be of like effect as if shown or mentioned in both. Explanatory notes on the drawings shall take precedence over conflicting drawn-out indications. Figured dimensions on drawings shall take precedence over scale measurements. Where figures are lacking, scale measurements may be followed, but in all cases the measurements are to be checked from the work in place and those measured dimensions taken at the site shall take precedence over scale dimensions in drawings.
- (d) In the event of conflict between Drawings and Specifications, the Specifications shall prevail. In the event of conflict among provisions of Specifications, using the CSI format, what is called for in the division of the predominant discipline will govern inconsistent provisions found elsewhere.
- (e) In the event of conflict among the drawings, the large-scale drawings prevail over the small-scale drawings. Figures given on drawings shall govern over scaled measurements from drawings.
- (f) Prior to commencing the Work, in order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to pricing or commencing the Work, the Contractor shall examine and compare the Contract Documents, information furnished by the Owner, relevant field measurements made by the Contractor and any visible or reasonably anticipated conditions at the site affecting the Work. This duty extends throughout the construction phase prior to commencing each particular work activity and/or system installation.
- (g) The Owner does not warrant or make any representations as to the accuracy or completeness of the information furnished to the Contractor by the Owner. The Contractor shall promptly report in writing to the Owner the discovery of any apparent error, omission or inconsistency in the Contract Documents prior to execution of the Work. It is recognized, however, that the Contractor is not acting in the capacity of a licensed design professional, and that the Contractor's examination is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations. If, however, the Contractor fails to perform the examination and reporting obligations of these provisions, the Contractor shall be responsible for any avoidable costs or direct damages.
- (h) All work shall be performed and furnished by the Contractor in accordance with accepted construction industry practices.
- (i) A duplication of work is not intended by the Contract Documents and any duplication shall not become a basis for extra cost to the Owner.

- 10. COMPLIANCE:** Contractor shall comply with all laws, ordinances, statutes, rules and regulations applicable to the project, including but not limited to those pertaining to the collection, transportation and disposal of trash and refuse and shall obtain such permits, licenses or other authorizations as may be required.

11. LABOR, LAWS AND WAGES:

In the execution of this contract, the Contractor must comply with all applicable State and Federal laws, regulations and rules including but not limited to those concerned with labor, equal employment opportunity, safety and minimum wages. The Contractor shall obtain and pay for all permits required in connection with the execution of Contractor's work. The Owner shall be furnished with certified copies of these permits if the Owner so requests. If such laws, regulations or rules conflict with the Bidding and Contract Documents, then the laws, regulations or rules, shall govern instead of the Bidding and Contract Documents, except in such cases where the Bidding and Contract Documents exceed them in quality of materials or labor, then the Bidding and Contract Documents shall be followed.

DUTY TO PAY PREVAILING WAGE RATES: The Contractor shall not pay less than the wage scale of the various classes of labor as shown on the prevailing wage schedule provided by Owner in the bid or proposal specifications. The specified wage rates are minimum rates only. Owner is not bound to pay any claims for additional compensation made by any Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract. The prevailing wage schedule is not a representation that qualified labor adequate to perform the Work is available locally at the prevailing wage rates.

Notification to Workers. Contractor shall post the prevailing wage schedule in a place conspicuous to all workers on the Project Site and shall notify each worker, in writing, of the following as they commence work on the Contract: the worker's job classification, the established minimum wage rate requirement for that classification, as well as the worker's actual wage. The notice must be delivered to and signed in acknowledgement of receipt by the worker and must list both the wages and fringe benefits to be paid or furnished for each classification in which the worker is assigned duties. When requested by Owner, Contractor shall furnish evidence of compliance with the Texas Prevailing Wage Law and the addresses of all workers.

Contractor shall submit a copy of each worker's wage-rate notification to ODR with the application for progress payment for the period during which the worker was engaged in activities on behalf of the Project.

The prevailing wage schedule is determined by Owner in compliance with Tex. Gov't Code, Chapter 2258. Should Contractor at any time become aware that a particular skill or trade not reflected on Owner's prevailing wage schedule will be or is being employed in the Work, whether by Contractor or by Subcontractor, Contractor shall promptly inform ODR of the proposed wage to be paid for the skill along with a justification for same and ODR shall promptly concur with or reject the proposed wage and classification. Contractor is responsible for determining the most appropriate wage for a particular skill in relation to similar skills or trades identified on the prevailing wage schedule. In no case, shall any worker be paid less than the wage indicated for laborers.

Penalty for Violation. Contractor, and any Subcontractor, will pay to the State a penalty of sixty dollars (\$60) for each worker employed for each day, or portion thereof, that the worker is paid less than the wage rates stipulated in the prevailing wage schedule.

Complaints of Violations.

Owner's Determination of Good Cause. Upon receipt of information concerning a violation, Owner will conduct an investigation in accordance with Tex. Gov't Code, Chapter 2258 and make an initial determination as to whether good cause exists that a violation occurred. Upon making a good cause finding, Owner will retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage schedule and any supplements thereto, together with the applicable penalties, such amounts being subtracted from successive progress payments pending a final decision on the violation.

No Extension of Time. If Owner's determination proves valid that good cause existed to believe a violation had occurred, Contractor is not entitled to an extension of time for any delay arising directly or indirectly from the arbitration procedures.

12. INSURANCE REQUIREMENTS: SEE EXHIBIT A

13. INDEPENDENT CONTRACTOR STATUS: Contractor recognizes that it is engaged as an independent contractor and acknowledges that Owner will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Contractor, in accordance with its status as an independent contractor covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Contractor hereby agrees to make its own arrangements for any such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.

14. PAYMENT BONDS: If the total contract price exceeds \$25,000 and is less than \$100,000, the Contractor shall execute a *Payment Bond* to the Owner in the amount of the total contract price. The payment bond is payable to the State in the full amount of the Contract and is solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the Contractor or a supplier of required materials or labor. The bond shall be executed by a corporate surety or corporate sureties duly authorized to do business in the State of Texas **and on forms provided by the Owner and approved by the Attorney General of Texas.** Corporate sureties authorized to issue bonds shall be qualified and comply with relevant provisions of the Texas Insurance Code. All Payment Bonds shall be executed by

sureties which are licensed to do business in the State of Texas and which are included in the list of companies in the current U.S. Department of the Treasury Circular 570, "Companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and Acceptable Reinsuring Companies", Sections 9304 through 9308 of Title 31 of the U.S. Code Annotated. The Contractor shall submit the executed payment bonds to the Owner within seven (7) business days after Notice of Intent to Award. The process of requiring and accepting bonds and making claims there under shall be conducted in compliance with Chapter 2253, *Texas Government Code*. If for any reason a statutory payment bond is not honored by the surety, the Contractor shall fully indemnify and hold the Owner harmless of and from any costs, losses, obligations or liabilities it incurs as a result. Owner shall furnish a copy of the payment bond and the related Contract to any qualified person seeking copies who complies with §2253.026, *Texas Government Code*. Claims on payment bonds must be sent directly to the Contractor and his surety in accordance with § 2253.041, *Texas Government Code*. All Payment Bond claimants are cautioned that no lien exists on the funds unpaid to the Contractor on such Contract, and that reliance on notices sent to the Owner may result in loss of their rights against the Contractor and/or his surety. The Owner is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee. When the value of the Contract between the Owner and the Contractor is less than \$25,000.00, claimants and their rights are governed by Texas Property Code, §§ 53.231 – 53.239. These provisions set out the requirements for filing a valid lien on funds unpaid to the Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claims. If the Contractor fails to submit such bond within the time stipulated herein, Owner may disqualify the bid. In such circumstances, TPWD shall be authorized to proceed with award to the next lowest, responsive and responsible bidder.

15. **ADDENDA:** Any addenda issued in writing by the Owner during the period of bidding shall be covered in the Contractor's bid. In executing the contract such addenda shall become a part thereof and shall modify the Bidding and Contract Documents accordingly. Oral changes in the work made during the time of bidding will not be binding. Bidders are required to write acknowledgement of receipt of all addenda on the bid form in the space provided. **BIDDER'S FAILURE TO ACKNOWLEDGE RECEIPT OF ADDENDA MAY RESULT IN REJECTION OF BID.**

16. **REFERENCES AND STANDARDS:**

- A. Contractor's personnel shall utilize the following adopted Standard Building Codes in all design and construction work.

1. INTERNATIONAL CODE COUNCIL ADOPTIONS*

- | | | |
|----|--------------------|---|
| a. | BUILDING CODE | INTERNATIONAL BUILDING CODE 2012 |
| b. | STRUCTURAL CODE | INTERNATIONAL BUILDING CODE 2012 |
| c. | PLUMBING CODE | INTERNATIONAL PLUMBING CODE 2012 |
| d. | MECHANICAL CODE | INTERNATIONAL MECHANICAL CODE 2012 |
| e. | ENERGY CODE | INTERNATIONAL ENERGY CODE 2012 |
| f. | GAS CODE | INTERNATIONAL FUEL GAS CODE 2012 |
| g. | RESIDENTIAL CODE | INTERNATIONAL RESIDENTIAL CODE 2012 |
| h. | EXISTING BUILDINGS | INTERNATIONAL EXISTING BUILDINGS CODE 2012 |

2. NATIONAL FIRE PROTECTION ASSOCIATION

- i. ELECTRIC CODE NATIONAL ELECTRIC CODE **2014**

3. STATE ENERGY CONSERVATION OFFICE/TEXAS COMPTROLLERS OFFICE

- j. ENERGY CODES FOR STATE BUILDINGS- Title 34, Part 1, Ch. 19, Subchapter C, Rule 19.31
1. CERTIFICATION FOR RESIDENTIAL AND NONRESIDENTIAL BUILDINGS REQUIRED BY ARCHITECT/ENGINEER-SEE ATTACHED

4. ACCESSIBILITY CODES

- k. US DEPT. OF JUSTICE, 2010 ADA STANDARDS FOR ACCESSIBLE DESIGN
- l. US DEPT. OF JUSTICE, ARCHITECTURAL BARRIERS ACT, ACCESSIBILITY GUIDELINES FOR OUTDOOR DEVELOPED AREAS ON FEDERAL LANDS-EFFECTIVE NOVEMBER 25, 2013
- m. 2012 TEXAS ACCESSIBILITY STANDARDS, ELIMINATION OF ARCHITECTURAL BARRIERS, TEXAS GOVERNMENT CODE, CHAPTER 469

5. PLAYGROUND SAFETY CODE

- n. Public Playground Safety Handbook, U.S. Consumer Product Safety Commission.

- B. In addition to the building codes adopted by Texas Parks and Wildlife Department, the latest edition of the following industry testing and quality standards as well as any additional standards set forth in the specifications and/or elsewhere in the Bidding and Contract Documents are incorporated herein and made a part hereof, as applicable:

ACI	American Concrete Institute
AISC	American Institute of Steel Construction
CRSI	Concrete Reinforcing Steel Institute
ASHRAE	American Society of Heating, Refrigeration and Air Conditioning Engineers
ASTM	American Society for Testing and Materials
AWWA	American Water Works Association
UL	Underwriters' Laboratories
SMACNA	Sheet Metal and Air Conditioning Contractors National Association
TCA	Tile Council of America
TXDOT	Texas Department of Transportation
TCEQ	Texas Commission on Environmental Quality

All contractors, including sub-contractors shall ensure all personnel follow the adopted Standardized Building Codes in all design and construction work.

17. **LICENSING OF TRADES:** Contractor shall comply with all applicable provisions of State law related to license requirements for skilled tradesmen, contractors, suppliers and or laborers, as necessary to accomplish the Work. In the event Contractor, or one of its Subcontractors, loses its license during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to Owner.
18. **MEASUREMENT AND BASIS OF PAYMENT:** The various items in the bid schedule will be paid at the unit or lump sum price bid. These prices shall be full compensation for furnishing all material, labor, equipment, tools, power, transportation, superintendence, overhead, and profit necessary to complete the construction of the various items of the project listed in the bid schedule. It is not the intent of the bid schedule to itemize each and every labor, material or incidental requirement. Any requirement, explicit or implied as determined by the Owner for project completion, including testing, and not specifically mentioned in the bid schedule shall be included in items with which they would be considered subsidiary. The measurement units that may be used are abbreviated on the bid schedule as follows:

LS	Lump Sum	EA	Each	LF	Linear Foot	SY	Square Yard
CY	Cubic Yard	VF	Vertical Foot	GAL	US Gallon		

19. **CHANGES AND CHANGED CONDITIONS:**

- (a) The Owner may, in writing, order changes in the Contract Documents within the general scope of the contract.
- (b) The Contractor shall promptly notify the Owner in writing of subsurface or latent physical conditions differing materially from those indicated in this contract or unknown unusual physical conditions at the site, before proceeding further with the work.
- (c) If changes pursuant to this section increase or decrease the cost of, or time required for, performing the work, then upon assertion of a claim in writing by the Contractor prior to the making of final payment under the contract, a written equitable adjustment by change order may be made. However, no adjustment shall be made unless the written notice required therein was given timely, or unless the Owner waives the requirement therefore. If the adjustment cannot be agreed upon, the dispute shall be decided pursuant to the paragraph entitled "Disputes".
- (d) It is recognized by the parties hereto and agreed by them that the Specifications and Drawings may not be complete or free from errors, omissions and imperfections or that they may require changes or additions in order for the Work to be completed to the satisfaction of Owner and that, accordingly, it is the express intention of the parties, notwithstanding any other provisions in this Contract, that any errors, omissions or imperfections in

such Specifications and Drawings, or any changes in or additions to same or to the Work ordered by Owner and any resulting delays in the Work or increases in Contractor's costs and expenses arising out of such errors, shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Contractor, whether for breach of Contract, or otherwise; provided, however, that Owner shall be liable to Contractor for the sum stated to be due Contractor in any Change Order approved and signed by both parties, it being agreed hereby that such sum, together with any extension of time contained in said Change Order, shall constitute full compensation to Contractor for all costs, expenses and damages to Contractor, as permitted under Tex. Gov't Code, Chapter 2260.

20. DISPUTES:

- (a) The dispute resolution process provided for in Tex. Gov't Code, Chapter 2260, and the procedures provided in Title 31, Part 2, Chapter 51, Subchapter J of the Texas Administrative Code shall be used by the Owner and the Contractor to attempt to resolve any claim for breach of contract made by the Contractor, that is not resolved under procedures described throughout the Terms and Conditions of the Contract.
- (b) Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.
- (c) Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

21. PAYMENTS TO CONTRACTOR:

- (a) If the contract time (or valid extension thereof) exceeds thirty (30) calendar days then upon presentation of a properly executed voucher, progress payments equal to 90% of the value of work performed may be made monthly on estimates approved by the Owner. Such voucher shall be accompanied by *Contractor's Progress Payment Affidavit* form furnished by Owner. Upon payment therefore, title to the property shall vest in the Owner. This provision shall not be construed as relieving the Contractor from sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work, or as waiving the right of the Owner to require the fulfillment of all of the terms of the contract. Final payment will be made after all work is completed and accepted
- (b) Final Payment constitutes a waiver of all claims by the Owner, relating to the condition of the Work except those arising from:
 - 1. Faulty or defective Work appearing after Substantial Completion (latent defects); and/or
 - 2. Failure of the Work to comply with the requirements of the Contract Documents; and/or
 - 3. Terms of any warranties required by the Contract, or implied by law; and/or
 - 4. Claims arising from personal injury or property damage to third parties.
- (c) The final payment shall not become due until the Contractor submits to the Owner the following:
 - 1. A fully executed *Contractor's Final Payment Affidavit* form furnished by Owner. Also, if required by Owner, the Contractor shall submit other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims arising out of the contract, to the extent and in such form as may be designated by the Owner. If any Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify it against any such claim;
 - 2. Two (2) sets of approved project submittals and all equipment and materials warranties/guarantees as provided by suppliers and/or manufacturers;
 - 3. One (1) set of "as-constructed" drawings and specifications showing all changes to the original construction documents. Drawings also shall show routing of underground outside utilities and conduits with actual dimensions from buildings or other known landmarks.
 - 4. If contract exceeds \$25,000, *Consent Of Surety Company To final Payment* form provided by Owner.
- (d) The Owner may reduce any Construction Voucher prior to payment to the extent necessary to protect the Owner from loss on account of actions of the Contractor, including, but not limited to:

1. Defective work not remedied;
 2. Damage to work of a separate contractor;
 3. Failure to maintain scheduled progress;
 4. Failure to comply with the requirements of Texas Government Code Chapter 2258 (Prevailing Wage Law);
or
 5. For Contracts with a value of less than \$25,000 for which no payment bond is posted, receipt of written notice by the Owner of unpaid bills, filed in conformance with § 53.232, Texas Property Code. Any funds so withheld shall be released to the Contractor if he furnishes a bond or release of lien as provided in § 53.236, Texas Property Code;
 6. Failure to maintain a current record set of "As-constructed" documents on site; and/or
 7. Failure to maintain or to allow Owner's inspection of payroll records.
- (e) Submission of an Application for Final Payment by the Contractor constitutes a waiver of all claims and liens by the Contractor except those specifically identified in writing and submitted to the ODR prior to the application for Final Payment.
- (f) Regardless of approval and issuance of Final Payment, the Contract is not deemed fully performed by the Contractor and closed out until the expiration of all warranty periods.

22. TERMINATION FOR DEFAULT:

- (a) The Owner may, without prejudice to any right or remedy terminate the employment of the Contractor and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor, under the following circumstances:
1. Persistent or repeated failure or refusal, except during complete or partial suspensions of work authorized under the Contract Documents, to supply enough properly skilled workmen or proper materials;
 2. Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, including Owner;
 3. Persistent failure to prosecute the work in accordance with the Contract Documents, and to insure its completion within the time, or any extension thereof, specified in this contract;
 4. Failure to remedy defective work condemned by the Owner;
 5. Failure to pay subcontractors, laborers, materialmen and suppliers pursuant to Texas Government Code Chapter 2251;
 6. Persistent endangerment, by the Contractor or its Subcontractors or other vendors, of the safety of labor or of the Work itself;
 7. Failure to maintain statutory bonds, if applicable and required herein, or failure to maintain insurance as required herein; or
 8. Any other material breach of the Contract.
 9. Contractor's insolvency, bankruptcy, or demonstrated financial inability to perform the work.
- (b) The Owner reserves the right to terminate at any time for any of the above-listed reasons or causes. Owner's failure to exercise the right to terminate in any instance or for any proper reason shall not be construed as waiver of the right to do so in any other instance or for any other proper reason.
- (c) The Owner shall give the Contractor and its Surety (if applicable) fifteen (15) days' prior written notice of its intent to terminate for any of the above reasons. If the Contractor or the Surety demonstrates, to the satisfaction of the Owner, that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, then the Owner shall rescind the notice and the Contract shall continue unmodified, and the Contractor shall not be entitled an extension of time. Should the Contractor or the surety fail to so demonstrate within thirty days following receipt of such notice, or fail to satisfy the Owner that the condition or conditions upon which the notice of termination is based have been removed, corrected, or will not recur, the Owner may arrange for completion of the Work and deduct the cost thereof from the unpaid Contract sum remaining, including the cost of additional Architect/Engineer services made necessary by such default or neglect, in which event no further payment shall then be made **to the Contractor**, by the Owner until all costs of completing the Work shall have been paid. If the unpaid balance of the Contract Sum exceeds the costs of finishing the Work, including compensation for the Architect/Engineer's additional services made necessary thereby, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor or

his surety shall pay the difference to the Owner. This obligation for payment shall survive the termination of the Contract. The Owner reserves the right, where the Contract is terminated for cause, to take assignment of any and all contracts between the Contractor and its Subcontractors, vendors and suppliers, and the ODR shall promptly notify the Contractor of the contracts the Owner elects to assume. Upon receipt of such notice, the Contractor shall promptly take all steps necessary to effect such assignment.

23. TERMINATION FOR CONVENIENCE OF OWNER: Prior to, or during the performance of the work, the Owner reserves the right to terminate the Contract for unforeseen causes not limited to court orders, loss of funding, acts of the federal government to discontinue the work, etc., that may occur and render the Owner's continued performance of the Contract impossible or illegal. Upon such an occurrence, the following procedures will be adhered to:

- (a) The Owner will immediately notify the Contractor in writing, specifying the reason for and the effective termination date of the Contract. Such notice shall also contain any instructions necessary for the protection, storage or decommissioning of incomplete work or systems, and for safety;
- (b) After receipt of the notice of termination, the Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the contract and shall:
 - 1. Stop all work;
 - 2. Place no further subcontracts or orders for materials or services;
 - 3. Terminate all subcontracts for convenience;
 - 4. Cancel all material and equipment orders as applicable;
 - 5. Take action that is necessary to protect and preserve all property related to this Contract which is in the possession of the Contractor.
- (c) Within 30 days of the notice of termination, the Contractor shall submit the final termination settlement proposal to the Owner based upon costs up to the date of termination, any provable loss (excluding anticipated profits and the cost for preparation of the final termination settlement proposal). If the Contractor fails to submit the proposal within the time allowed, the Owner may determine the amount due to the Contractor because of the termination and shall pay the determined amount to the Contractor.
- (d) If the Contractor and the Owner fail to agree on the settlement amount, the matter will be handled as a dispute through administrative procedures as established in paragraph entitled "Disputes" of these Terms and Conditions (Construction).

24. WARRANTY OF CONSTRUCTION:

- (a) Contractor warrants to the Owner that all Work shall be executed in accordance with the Contract Documents, complete in all parts and in accordance with approved practices and customs, and of the best finish and workmanship. Unless otherwise specified, all materials and equipment incorporated in the Work under the Contract shall be new. The Owner may, at its option, agree in writing to waive any failure of the Work to conform to the Contract Documents, and to accept a reduction in the Contract Price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, however, the Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute and is not waived by any inspection or observation by the Owner, Architect/Engineer or others, by making any progress payment or final payment, except as provided in §19, by the use or occupancy of the Work or any portion thereof by the Owner, at any time, or by any repair or correction of such defect made by the Owner.
- (b) Except as otherwise specified, the Contractor shall repair all defects in materials, equipment or workmanship appearing within one year from the date of Substantial Completion of the Work as a whole. Upon receipt of written notice from the Owner of the discovery of any defects, the Contractor shall promptly and at its own cost remedy the defects and replace any property damaged therefrom. In case of emergency where delay would cause serious risk of loss or damage to the Owner, or if the Contractor, after notice, fails to proceed promptly and remedy within fifteen (15) days or within another period of time which has been agreed to in writing, in compliance with the terms of the warranty and guarantee, the Owner may have the defects corrected and the Contractor and his surety shall be liable for all expenses incurred.
- (c) Where a particular piece of equipment or component of the work for which a separate warranty is required under the Contract Documents is placed in continuous service before Substantial Completion, the date of service commencement shall be certified by the Architect/ Engineer and the Warranty Period for that equipment or component shall run from the date so certified. In addition to the Contractor's warranty and duty to repair, as

set forth in herein, the Contractor expressly assumes all warranty obligations required under the Contract Documents for specific building components, systems and equipment. The Contractor may satisfy any such obligation by obtaining and assigning to the Owner a complying warranty from a manufacturer, supplier, or subcontractor. Where an assigned warranty is tendered and accepted by the Owner which does not fully comply with the requirements of the Contract Documents, the Contractor shall remain liable to the Owner on all elements of the required warranty that are not provided by the assigned warranty.

25. INDEMNIFICATION AND HOLD HARMLESS:

Indemnification of Owner. The Contractor covenants and agrees to **FULLY INDEMNIFY and HOLD HARMLESS**, the Owner and the elected officials, employees, officers, directors, volunteers, and representatives of the Owner, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death and property damage, made upon the Owner directly or indirectly arising out of, resulting from or related to Contractor's activities under this Contract, including any acts or omissions of Contractor, any agent, officer, director, representative, employee, consultant or the Subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Contract. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of the Owner, officers or employees, separate Contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage. **IN THE EVENT CONTRACTOR AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**

- (a) The provisions of this Indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- (b) Promptly advise the Owner in writing of any claim or demand against the Owner or the Contractor known to the Contractor related to or arising out of the Contractor's activities under this Contract.

26. FORCE MAJUERE

Contractor is not responsible for failure to perform an obligation under this Agreement if such failure is as a result of acts of God, war, order of legal authority, or other unavoidable cause not attributable to the fault or negligence of Contractor. The burden of proof for relief based on force majeure rests upon Contractor. Before Contractor may be granted relief under force majeure for a failure to perform an obligation under this Agreement, Contractor must notify Owner in writing of their intent to claim relief under force majeure, perform all reasonable measures to minimize delay or damages caused by foreseeable events, and fulfill all non-excused obligations under this Agreement.

27. DELAYS AND EXTENSION OF TIME:

- (a) The Contractor may be granted an extension of time because of changes ordered in the work or because of unforeseeable delays not within the control of or arising from the fault of either the Contractor or Owner caused by the following:
 - 1. Unusual delay in the delivery of materials, components or equipment to be incorporated into the work. Strikes and labor disputes (but not the availability of adequately skilled labor, unless such impact is caused solely by the conduct of the Owner);
 - 2. Physical damage to the work caused by circumstances beyond the control of the Contractor;
 - 3. War, civil unrest or insurrection;
 - 4. Other unforeseeable causes beyond the control of either the Contractor or the Owner, including inclement weather, but not for delays that merely extend the duration of non-critical activities, or which consume only float without delaying the project completion date.
- (b) Claims or extensions of time must be made in writing within thirty (30) calendar days after the onset of the event or circumstance giving rise to the delay, except in the case of inclement weather, claims for which shall be submitted in writing within 30 calendar days after cessation of the cause of the delay. All time extension claims shall be supported by sufficient written evidence to justify the claim. In the case of a continuing cause of delay, only one claim is necessary. Claims for extensions of time shall be stated in numbers of whole calendar days. In

case of claims for extension of time because of inclement weather, such extension of time shall be granted only because such inclement weather prevented the execution of major or critical path items of work.

28. NO DAMAGES FOR DELAY: THE CONTRACTOR HAS NO CLAIM FOR MONETARY DAMAGES FOR DELAY OR HINDRANCES TO THE WORK FROM ANY CAUSE, INCLUDING WITHOUT LIMITATION ANY ACT OR OMISSION OF THE OWNER.

29. COMPLIANCE WITH LAWS AND SAFETY PRECAUTIONS AND PROGRAMS:

- (a) Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work and it shall be the duty and responsibility of the Contractor and all of its subcontractors to be familiar and comply with all requirements of Public Law 91-596, 29 U.S.C. Secs. 651, et seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto, and to enforce and comply with all of the provisions of this Act.
- (b) It shall be the duty and responsibility of the Contractor and all of its subcontractors to comply with any and all state and federal statutes, rules, and regulations, including but not limited to those relating to hazardous materials.
- (c) In any emergency affecting the safety of persons or property, the Contractor shall act, at his discretion, to prevent threatening damage, injury or loss provide Owner with prompt notice if Contractor believes that any significant changes in the work or variations from Contract Documents have been caused by Contractor's emergency response. Any additional compensation or extension of time claimed by the Contractor resulting from emergency work shall be considered in accordance with paragraph entitled "Changes and Changed Conditions".

30. CONTRACT COMPLETION AND LIQUIDATED DAMAGES:

- (a) Contract Period: This contract must be completed within the specified number of days commencing on the date stated in the Notice to Proceed. Unless specifically stated as "working day", the term "day" or "calendar day" shall mean every day of the year. Contractor shall submit a schedule for normal working days.
- (b) The Owner has determined that the completion of the work in this contract is critical to the proper operation of the facility, and the Contractor's failure to complete the Work within such time will cause damage to the Owner. Since exact damages are difficult to determine or forecast, the sum of **\$198.25** per calendar day is hereby established by the parties as a reasonable estimate of just compensation to the Owner for the failure of the Contractor to complete the work by the time set forth in the contract or authorized extension thereto. Said sum will be deducted from the money due or to become due to the Contractor, not as a penalty, but as liquidated damages and added expense including administrative and inspection costs for each and every calendar day the work or any portion thereof shall remain incomplete after the expiration of the time limit set in the contract or authorized extension.
- (c) Charges for liquidated damages will begin accumulating on the first calendar day following the final contract completion date and continue until the date of final acceptance as established by the Owner. Final acceptance will not be issued until all punch list items have been completed, as verified by Owner.

31. CONSTRUCTION SUBMITTALS:

(a) GENERAL:

- 1. A TPWD standard *Submittal Cover Sheet* must accompany each numbered submittal set. **One Submittal per Submittal Cover Sheet.**
- 2. The number of copies of submittals required for each item shall be not less than the original and four (4) copies for Owner's use, plus the number of additional copies that the Contractor desires for his own use.
- 3. The Contractor must double-check and sign all submittals before forwarding them to the Owner for review and action.
- 4. The Architect/Engineer and the Owner will review the submittal data. If there are no exceptions taken to the submittal, the original and three copies will be retained by the Owner. All remaining copies will be returned to the Contractor. The Contractor must keep one copy at the jobsite at all times.
- 5. If further action is required by the Contractor, Owner will retain three copies of the submittal data for the Owner's use and return all remaining copies to the Contractor.

6. Any and all costs, direct or indirect, incurred by Owner in reviewing submittals in excess of two (2) times will be charged to the Contractor and deducted from the total price for the work.
7. Owner's approval of shop drawings and/or any aspects of the work shall not act to transfer Contractor's responsibility for, nor relieve Contractor from the performance of any of Contractor's duties set forth in the contract documents.

(b) **PRE-CONSTRUCTION SUBMITTALS:** The following Pre-construction Submittals shall be submitted by the Contractor for the Owner's review and approval. Prior to the Pre-construction Conference, the Owner will provide more specific clarification regarding the requirements for each PR Submittal.

1. Submittal PR-1 – **To be submitted to Owner not later than ten (10) days after issuance of the Notice of Intent to Award:**
 - a. Contractor's Superintendent: List of name and qualifications of the person designated as project superintendent.
 - b. Subcontractors/Materials Suppliers: List of all subcontractors and major material/equipment suppliers that Contractor and Contractor's major subcontractors propose to use. This list shall include correct names, mailing addresses and phone numbers.
 - c. Contractor's Authorized Representatives: List of names and titles of Contractor's representatives authorized to sign contractual documents and construction vouchers.
 - d. Licensed Craftspersons: List of names, qualifications and licenses of all licensed crafts required by the contract documents.
2. Submittal PR-2 – **To be submitted to Owner not later than ten (10) days after issuance of the Notice of Intent to Award:**
 - a. Contract Price Breakdown (Schedule of Values), itemizing material and labor for each classification of work.
 1. Owner will provide forms entitled "*Construction Voucher Schedule of Values*" for the Contractor's use in preparing the breakdown. After contract award, the Owner will also provide further clarification including an example.
 2. Itemization of material and labor costs is required so the Owner may make progress payments on materials delivered. For each bid item or classification of work to be listed in the "Type of Work" column on the *Construction Voucher Schedule of Values*, the Contractor shall multiply the unit bid price by the estimated quantity for each bid item to arrive at the "Contract Cost" for each such bid item. Contractor shall separately itemize material and labor costs for each such bid item in the "Type of Work" column.
 - b. Work Progress Schedule (in duplicate) of *Contractor's Proposed Progress Schedule* for work tasks in relation to the entire project. Owner will provide a schedule bar chart form to aid the Contractor in preparing a schedule. The Contractor shall follow this format and must indicate all work tasks as well as differentiate critical path work tasks from non-critical path tasks showing the beginning and ending dates for each critical and non-critical path work task.

(c) **MATERIAL SUBMITTALS - To be submitted to Owner within 10 days after issuance of Notice to Proceed and prior to the installation of any materials:**

1. Contractor shall submit manufacturer's information on all materials and equipment, regardless of whether substitutions are being requested.
2. Substitution requests must be submitted early enough to allow time for evaluation by the Owner and for resubmittal, if required. Material substitutions will not be allowed following this 10-day period.
3. No materials shall be ordered or installed until submittals for such materials have been received and acted upon by the Owner.

32. **PRECONSTRUCTION CONFERENCE:** After the Contractor's receipt of the Notice to Proceed and prior to the start of work, a conference between the Owner and the Contractor will be held at the site to discuss provisions of the contract documents and to coordinate the work effort. **The Contractor's jobsite Superintendent is required to attend.** At that time the Contractor shall be furnished additional sets of Contract Documents.

33. **ARCHEOLOGICAL MONITORING:** The Antiquities Code of Texas, established by Article 6145-9 of Vernon's Texas Civil Statutes applies to this project. Violations of the Code are subject to penalties as provided by Code. Copies of the Code may be obtained from the Texas Antiquities Committee, P. O. Box 12276, Austin, Texas. Excavation work on the project will be monitored by the Owner's archeologist. Any and all artifacts discovered during project shall be immediately reported to Owner's Archeologist. Any materials found on site remain the property of the Owner.

34. **OWNER'S INSPECTION – QUALITY ASSURANCE:**

- (a) The Owner will employ a Project Inspector who will periodically inspect and observe the construction progress, procedures, and materials of the Contractor for the purpose of providing quality assurance for the Owner. Such observations by Owner shall not be construed as construction supervision nor indication of approval of the manner or location in which the work is being performed as being a safe practice or place. The Contractor shall offer full cooperation to facilitate these observations and shall be responsive to questions from the Owner's Inspector regarding methods, equipment, materials, and intentions in pursuing the work or any particulars thereof.
- (b) Contractor shall notify Inspector when work is ready for inspection or testing. It shall be Contractor's responsibility to give such notifications sufficiently in advance of other work to prevent delays. A minimum of five (5) working days advance notice is required, and Contractor shall include in his work schedule such notice periods for inspections and/or testing. Failure to do so shall cause any certifications of testing to be void and require the Contractor to re-test at the Owner's request. All expenses for re-testing shall be borne by the Contractor.
- (c) Tests cannot be conducted and work cannot be covered up until the Inspector observes and authorizes continuation of work. The Contractor shall bear all costs for re-tests and for removal and replacement of construction resulting from unauthorized continuation.
- (d) Should ODR fail to make the necessary inspection within the agreed period, Contractor may proceed with cover-up Work after making every reasonable effort to contact the ODR and after documenting the Work, but is not relieved of responsibility for Work to comply with requirements of the Contract Documents.
- (e) If applicable, all permanent utilities shall be connected before final tests are conducted for equipment and systems. Final operational tests shall be conducted prior to project acceptance by the Owner. The Contractor shall provide the materials, energy, equipment and personnel to conduct the tests required in the contract.
- (f) If the Owner rejects materials that have been incorporated into the project, any testing performed to prove compliance will be at the expense of the Contractor.
- (g) No work shall be performed on weekends or State-designated holidays unless approved by the inspector.

35. **AVAILABILITY OF FUNDS:** This contract is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature, or otherwise made available, to the Texas Parks and Wildlife Department.

36. **CONSTRUCTION MATERIALS:**

- (a) **Materials:**
 - 1. All materials shall be new and of the quality specified. Materials shall be free from defects.
 - 2. Unless otherwise indicated in the specifications, material shall be installed in accordance with the manufacturer's recommendations and shall include such tests as manufacturer recommends.
- (b) **Storage and Protection of Materials:**
 - 1. The Contractor is responsible for all damages to work performed and material delivered until completion and final acceptance of work. All materials shall be suitably stored to be protected from damage. Watertight storage facilities of suitable size with floors raised above the ground shall be provided for all materials subject to damage from exposure to the weather. Other materials shall be stored on blocks off the ground. Materials shall be stored to permit easy access for inspection and identification. Any material that has deteriorated, become damaged or otherwise unfit for use, shall not be used in the work (as judged by Owner). Upon completion of all work, or when directed, the Contractor shall remove storage facilities from the site.

2. If applicable, during construction, open ends of all drains, piping and conduit, and all openings in equipment, shall be closed before leaving the work at any time so as to prevent the entrance of all foreign matter.

37. EXECUTION OF THE WORK/CONSTRUCTION SITE AND JOB CONDITIONS:

- (a) Superintendence: Contractor shall employ a competent person or persons who will be present at the Project Site during the progress of the Work to supervise or oversee the work. The competent persons are subject to the approval of ODR through the submittal process stated in Item 30. Contractor shall not change approved staff during the course of the project without the written approval of ODR unless the staff member leaves the employment of Contractor.
- (b) Jobsite: The Contractor will be provided with designated space in the immediate vicinity of the job site for use during construction. Unauthorized damage to any existing utilities, building facilities, structures, or plant life shall be repaired by the Contractor at no expense to the Owner. The Contractor shall take precautions necessary to protect persons and property against injury or damage and shall be responsible for any such injury or damage. The Contractor shall not allow any unsafe or unsanitary conditions to develop as a result of Contractor's operations for the duration of construction.
- (c) Utilities: Water and electrical power are available and will be furnished by the Owner at no charge to the Contractor. However, any temporary connections, appurtenances or extensions shall be provided by the Contractor at no cost to the Owner and removed from the premises at the conclusion of the contract.
- (d) Telephone: There is no telephone service at the site available to the Contractor. Contractor shall maintain a cellular or mobile telephone at the site and notify the ODR of the number.
- (e) Toilet Facilities: The Contractor shall provide and maintain in neat, sanitary condition temporary toilets and other necessary accommodations for employees' use to comply with the regulations of the State Department of Health or other jurisdiction. The Owner will designate a location on the site for the Contractor to place temporary toilets.
- (f) Trash and Debris: The Contractor shall not allow trash or debris to accumulate on the site. At the end of primary segments (installation and removal) of the project, Contractor shall clean the entire area of any litter resulting from Contractor's efforts and shall leave the area "broom clean". The Contractor shall maintain the premises as clean and presentable as good construction practices will allow at all times.
- (g) Project Identification: There shall be no project signs of any size or type allowed on the project site or surrounding Texas Parks and Wildlife Department property at any time unless Federal Funds are used.
- (h) Fire Protection: The Contractor shall take stringent precautions against fire. Open fires are not allowed unless approved in writing by Owner.
- (i) Other Activities: The Contractor shall perform the work without interfering with other contractors' work or Owner's activities to the extent possible and with as little delay.
- (j) Field Office: The Owner will provide the Contractor with a site on which the Contractor may place a small, temporary office structure.

38. WILDLIFE MANAGEMENT AREA (WMA) OPERATIONS: During construction of this project the WMA will remain open to public visitation. It is the responsibility of the Contractor to maintain convenient access and egress to the WMA facilities in a manner to be approved by the Owner. The Contractor shall also be responsible for public safety at his construction sites. All temporary fencing, barricades, warning lights, signs, and flagmen shall be provided and maintained in good condition throughout the course of the project. The Contractor shall maintain security of construction sites.

39. PROTECTION OF SITE: The Contractor shall protect all trees and shrubs adjacent to construction site, and if Contractor finds that the work will require removal of trees the Contractor shall obtain approval of Owner prior to removal. The Contractor shall be held liable for removal of trees without prior approval of Owner.

40. UNDERGROUND OBSTACLES: The approximate location of existing underground improvements and utilities is shown on the drawings according to the best information available to the Owner; in addition, the Contractor will make every effort to establish the exact location of such underground improvement or utility by contacting owners of same and by prospecting in advance of all trenching and subsurface excavations.

41. CUTTING AND PATCHING: Where indicated in the construction documents, this project requires cutting into existing construction for the performance of the work and requires subsequent fitting and patching to restore the existing work to original condition.

- (a) Utilities:
 - 1. Do not cut and patch utilities until all necessary approvals and coordination requirements are accomplished.
 - 2. Before cutting services which are to remain permanently or temporarily in service, provide by-pass system as necessary to maintain service.
 - 3. After by-pass and cutting, cap, valve or plug and tightly seal remaining portion of service piping or conduit to prevent entrance of moisture and foreign matter.
- (b) Structural Work:
 - 1. Do not cut and patch structural work in a manner that would result in a reduction of load-carrying capacity or of load-deflection ratio.
- (c) Inspection:
 - 1. Before cutting, examine items to be cut and patched and the conditions under which the work is to be performed. If unsafe or otherwise unsatisfactory conditions are encountered, take corrective action before proceeding with the work.
 - 2. Meet at the work site with all trades involved in cutting and patching. Review areas of potential interference and conflict between the various trades. Coordinate layout of the work and resolve potential conflicts before proceeding with the work.

42. **AS-CONSTRUCTED DRAWINGS:** The Contractor shall set aside one set of construction drawings and specifications to be used for keeping a record of all changes made during construction. The Contractor shall be responsible for keeping these drawings and specifications current and neatly noting with colored pencil or ink the actual conditions of the work and show and reference all changes made during construction. These drawings will be checked once each month by the Owner and partial payments will not be made to the Contractor until the Owner verifies that the records are being properly kept. These construction drawings shall be turned over to the Owner at the completion of the project. Final payment will not be made until these drawings have been received and approved by the Owner.

43. **CLEAN-UP:** The Contractor shall remove all waste products, dust, dirt, debris, packaging, trash, fingerprints, grease containers, and other deleterious materials and marks from the site upon completion of the work. Refer to individual specification sections for special cleaning required by that section. Contractor is expected to leave the project in spotless, "like new" condition.

44. **MINIMUM QUALIFICATIONS:** Contractor must meet the following minimum qualifications and describe required experience on submitted Contractor's Qualification Statement. Contractor must be a Licensed Electrician.

Contractor must show evidence of a minimum of three (3) years of experience on five (5) similar projects by these contract documents (as judged by owner) and as stipulated in the contract documents to be eligible for contract award. Must be a licensed electrician.

45. **OCCUPATIONAL SAFETY AND HEALTH STANDARDS:** Prior to trenching below a depth of four (4) feet (if applicable), a Contractor must submit separate pay items for: (i) trench safety to be determined by the linear feet of trench excavated, and (ii) special shoring requirements, if any, to be determined by the square feet of shoring used, pursuant to *Texas Government Code*, Title 10, Chapter 2166, Section 2166.303. Such pay item(s), following calculation as required above, shall be quoted on the basis of a total lump sum price.

46. **RIGHT TO AUDIT:** The Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. The Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. The Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the Project. The Contractor and the subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TPWD and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor. The Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. The Contractor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize the TPWD and the State of Texas to immediately assess appropriate damages for such failure. The acceptance of funds by the Contractor or any other entity or person directly under this Contract, or indirectly through a subcontract under this Contract, shall constitute acceptance of the authority of the State Auditor to conduct an audit or

investigation in connection with those funds. The Contractor acknowledges and understands that the acceptance of funds under this Contract shall constitute consent to an audit by the State Auditor, Comptroller or other agency of the State of Texas. The Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.

47. (RESERVED)

48. (RESERVED)

49. (RESERVED)

50. **IMMIGRATION REFORM:** The Immigration Reform and Control Act of 1986 and 1990, as amended require that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. The Owner is committed to complying with all applicable immigration laws of the United States and requires compliance by all Contractors and Subcontractors who contract with the State. Contractor shall not place any employee of Contractor at a worksite, nor shall Contractor permit any employee, nor any Subcontractor, to perform any work on behalf of or for the benefit of the State, without first ensuring said employee's authorization to lawfully work in the United States.

Contractor acknowledges, agrees and warrants (a) that Contractor maintains and follows an established policy to verify the employment authorization of its employees and to ensure continued compliance for the duration of employment, (b) that Contractor has verified the identity and employment eligibility of all employees in compliance with applicable law, (c) that Contractor has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to Contractor's senior management and (d) that Contractor is without knowledge of any fact that would render any employee or subcontractor of Contractor ineligible to legally work in the United States.

Contractor further acknowledges, agrees and warrants that Contractor (e) has complied and shall at all times during the term of this Contract comply in all respects with the Immigration Reform and Control Act of 1986 and 1990 as amended, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules and regulations relating thereto (f) has properly maintained and shall at all times during the term of this Contract properly maintain all records required by Department of Homeland Security, Immigration and Customs Enforcement (DHS-ICE), including, with limitation, the completion and maintenance of the Form I-9 for each of Contractor's employees and (g) has responded and shall at all times during the term of this Contract respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of this Contract, Contractor shall and shall cause its directors, officers, manager, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by the Owner or any State Agency of Contractor or any of its employees.

51. **CIVIL RIGHTS:** Contractor shall comply with all federal, state and local laws, regulations, executive orders, ordinances and requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, executive orders, ordinances, and requirements and guidelines currently exist and as they are amended throughout the term of this Contract. The Owner reserves the right in its sole discretion to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for Owner's or Contractor's compliance with all applicable State and federal laws and regulations. Without limiting the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive order to the extent they are applicable to the Contract: (i) Titles VI and VII of Civil Rights Act of 1964, as amended; (ii) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vi) The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (vii) 40 TAC § 819.12 & Tex Labor Code Chapter 21 relating to Prohibitions relating to employment and discrimination; (viii) all regulations and administrative rules established pursuant to the foregoing laws; (ix) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations; and (x) all federal and state laws governing the handling, processing, packaging, storage, labeling and delivery of food products, if applicable. All laws, regulations and executive orders applicable to the Contract are incorporated by reference where so required by law.

52. **FEDERAL, STATE AND LOCAL REQUIREMENTS:** Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Contractor is responsible for both federal and State unemployment insurance coverage and

standard Worker's Compensation insurance coverage. Contractor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Contractor or its employees for any Unemployment or Worker's Compensation coverage or federal or State withholding requirements. Contractor shall indemnify the State of Texas and shall pay all costs, penalties or losses resulting from Contractor's omission or breach of this Section.

53. **SEVERABILITY CLAUSE:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants and conditions of this Contract shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
54. **NO WAIVER:** Nothing in this Contract shall be construed as a waiver of the state's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies or immunities available to the State of Texas. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies or immunities available to the State of Texas under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies or immunities or be considered as a basis for estoppel. The Owner does not waive any privileges, rights, defenses or immunities available to the Owner by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract.
55. **DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES:** Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com Code, Chapter 17 or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.
56. **EQUAL OPPORTUNITY:** Contractor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed religion, political belief, sex, sexual orientation, age and disability in the performance of this Contract.
57. **FELONY CRIMINAL CONVICTIONS:** Contractor represents and warrants that Contractor has not and Contractor's employees have not been convicted of a felony criminal offense or that if such a conviction has occurred, Contractor has fully advised the Owner as to the facts and circumstances surrounding the conviction.
58. **ASSIGNMENTS:** Without the prior written consent of the Owner, Contractor may not assign this Contract, in whole or in part and may not assign any right or duty required under it.
59. **INDEPENDENT CONTRACTOR:** Contractor shall serve as an independent contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.
60. **PATENT, TRADEMARK, COPYRIGHT AND OTHER INFRINGEMENT CLAIMS:** Contractor shall indemnify, save and hold harmless the State of Texas from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from the State's or Contractor's use of or acquisition of any services or other items provided to the State of Texas by Contractor or otherwise to which the State of Texas has access as a result of Contractor's performance under this Contract, provided that the State shall notify Contractor of any such claim within a reasonable time of the State's receiving notice of any such claim. If Contractor is notified of any claim subject to this section, Contractor shall notify the Owner of such claim within five (5) business days of such notice. No settlement of any such claim shall be made by Contractor without the Owner's prior written approval. Contractor shall reimburse the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorney's fees and court costs, arising from any such claim. Contractor shall pay all reasonable costs of the State's counsel and shall also pay costs of multiple counsel, if required to avoid conflicts of interest. Contractor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and permits.
61. **PUBLIC INFORMATION:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) after award of a Contract. However, certain information may be confidential and fall under an exception to disclosure under the Public Information Act such as proprietary information, trade secrets, and certain commercial and financial information where disclosure might cause "*substantial competitive harm to your business.*" If the Bidder believes that his response to this solicitation contains

confidential information in those categories, the Bidder must specifically document this at the top or bottom of each page that contains the information the Bidder considers confidential. The Bidder's documentation must include a statement that confidential information is contained on that page, refer to its exact location on the page, and describe the specific nature of the exception to the Texas Public Information Act that the Bidder believes applies to this information, i.e. copyrighted, trade secret, proprietary, financial etc. A general disclaimer that the Bidder's response contains confidential information will not be sufficient to meet this requirement. **If such documentation is not provided, TPWD will assume that all information provided in the response to this solicitation is disclosable under the Act.**

The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of information in this Invitation for Bids.

If an Open Records Request is made for public information, Contractor is required to submit the information in Adobe Acrobat 6.0 .pdf file format to Owner at no additional cost.

62. U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM

By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

- (a) All persons employed to perform duties within Texas, during the term of the Contract; and
- (b) All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America.

The Contractor shall provide, upon request of Texas Parks and Wildlife Department, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

63. FEDERAL REQUIREMENTS: Project Number 128294 is funded in part through a grant from the U.S. Fish and Wildlife Service. The Contractor shall comply with all federally mandated requirements as provided in EXHIBIT B – FEDERAL COMPLIANCE. All of the citations, terms, conditions and forms included in Exhibit B are hereby attached to these solicitation and contract documents for all purposes and shall become a part of the Contract.

EXHIBIT A
OWNER'S INSURANCE REQUIREMENTS OF CONTRACTOR

1.0 **Definitions.** For purposes of this Contract:

- 1.1 Owner Parties. "Owner Parties" means the State of Texas and any Agency of the State of Texas, acting through the responsible entity of the State of Texas identified in the Contract as the Owner. **Owner herein shall mean the Texas Parks and Wildlife Department.**
- 1.2 Contractor. "Contractor" shall mean the vendor providing the service or work to be performed under this Contract.
- 1.3 Subcontractor. "Subcontractor" shall include subcontractors of any tier.
- 1.4 ISO. "ISO" means Insurance Services Office.

2.0 **Contractor Insurance Representations to Owner Parties**

- 2.1 It is expressly understood and agreed that the insurance coverages required herein:
 - 2.1.1 Represent Owner Parties' minimum requirements and are not to be construed to void or limit the Contractor's indemnity obligations as contained in this Contract nor represent in any manner a determination of the insurance coverages the Contractor should or should not maintain for its own protection; and
 - 2.1.2 are being, or have been, obtained by the Contractor in support of the Contractor's liability and indemnity obligations under this Contract. Irrespective of the requirements as to insurance to be carried as provided for herein, the insolvency, bankruptcy or failure of any insurance company carrying insurance of the Contractor, or the failure of any insurance company to pay claims accruing, shall not be held to affect, negate or waive any of the provisions of this Contract.
- 2.2 Failure to obtain and maintain the required insurance shall constitute a material breach of, and default under, this Contract. If the Contractor shall fail to remedy such breach within five (5) business days after notice by the Owner, the Contractor will be liable for any and all costs, liabilities, damages and penalties resulting to the Owner Parties from such breach, unless a written waiver of the specific insurance requirement(s) is provided to the Contractor by the Owner. In the event of any failure by the Contractor to comply with the provisions of this Contract, the Owner may, without in any way compromising or waiving any right or remedy at law or in equity, on notice to the Contractor, purchase such insurance, at the Contractor's expense, provided that the Owner shall have no obligation to do so and if the Owner shall do so, the Contractor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.
- 2.3 This Exhibit is an independent contract provision and shall survive the termination or expiration of the Construction Contract.

3.0 **Conditions Affecting All Insurance Required Herein**

- 3.1 Cost of Insurance. All insurance coverage shall be provided at the Contractor's sole expense.
- 3.2 Status and Rating of Insurance Company. All insurance coverage shall be written through insurance companies authorized to do business in the state in which the work is to be performed and rated no less than A-: VII in the most current edition of A. M. Best's Key Rating Guide.

- 3.3 Restrictive, Limiting, or Exclusionary Endorsements. All insurance coverage shall be provided to the Owner Parties in compliance with the requirements herein and shall contain no endorsements that restrict, limit, or exclude coverage required herein in any manner without the prior express written approval of the Owner.
- 3.4 Limits of Liability. The limits of liability may be provided by a single policy of insurance but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required herein.
- 3.5 Notice of Cancellation or Material Reduction in Coverage. All insurance coverage shall contain the following express provision:
- In the event of cancellation, material change in coverage, or a non-renewal affecting the Owner as certificate holder, thirty (30) days prior written notice shall be given to the certificate holder.
- 3.6 Waiver of Subrogation. The Contractor hereby agrees to waive its rights of recovery from the Owner Parties with regard to all causes of property and/or liability loss and shall cause a waiver of subrogation endorsement to be provided in favor of the Owner Parties on all insurance coverage carried by the Contractor, whether required herein or not.
- 3.7 Deductible/Retention. Except as otherwise specified herein, no insurance required herein shall contain a deductible or self-insured retention in excess of \$25,000 without prior written approval of the Owner. All deductibles and/or retentions shall be paid by, assumed by, for the account of, and at the Contractor's sole risk. The Contractor shall not be reimbursed for same.
- 4.0 Maintenance of Insurance. The following insurance shall be maintained in effect with limits not less than those set forth below at all times during the term of this Contract and thereafter as required:
- 4.1 Commercial General Liability Insurance
- 4.1.1 Coverage. Such insurance shall cover liability arising out of all locations and operations of the Contractor, including but not limited to liability assumed under this contract (including the tort liability of another assumed in a business contract). Defense shall be provided as an additional benefit and not included within the limit of liability.
- 4.1.2 Form. Commercial General Liability Occurrence form (at least as broad as an unmodified ISO CG 0001 0798 or its equivalent).
- 4.1.3 Amount of Insurance. Coverage shall be provided with limits of not less than:
- | | |
|---|-------------|
| Each Occurrence Limit..... | \$1,000,000 |
| General Aggregate Limit..... | \$2,000,000 |
| Product-Completed Operations Aggregate Limit..... | \$2,000,000 |
| Personal and Advertising Liability | \$1,000,000 |
| Damage to Premises Rented to You | \$50,000 |
| Medical Expense each person..... | \$5,000 |
- 4.1.4 Required Endorsements
- a. Additional Insured. Additional insured status shall be provided in favor of the Owner Parties on ISO forms CG 20 10 or its equivalent.
- b. Notice of Cancellation or Material Reduction in Coverage, as required in 3.5, above.
- c. Primary and Non-Contributing Liability. It is the intent of the parties to this Contract that all insurance coverage required herein shall be primary to and shall

seek no contribution from all insurance available to Owner Parties, with Owner Parties' insurance being excess, secondary and non-contributing. This CGL coverage shall be endorsed to provide such primary and non-contributing liability coverage.

d. Waiver of Subrogation, as required in 3.6, above.

4.1.5 Continuing Commercial General Liability Insurance. The Contractor shall maintain such insurance in identical coverage, form and amount, including required endorsements, for the duration of the contract and the warranty period.

4.2 **Business Auto Liability Insurance**

4.2.1 Coverage. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned).

4.2.2 Form. Business Auto form (at least as broad as an unmodified ISO CA 0001 or its equivalent).

4.2.3 Amount of Insurance. Coverage shall be provided with a limit of not less than \$1,000,000.

4.2.4 Required Endorsements

a. Notice of Cancellation or Material Reduction in Coverage, as required in 3.5, above.

b. Waiver of Subrogation, as required in 3.6, above.

4.3 **Workers' Compensation/Employer's Liability Insurance**

4.3.1 Coverage. Such insurance shall cover liability arising out of the Contractor's employment of workers and anyone for whom the Contractor may be liable for workers' compensation claims. Workers' compensation insurance is required, and no "alternative" forms of insurance shall be permitted. USL&H must be provided where such exposure exists.

By signing the Contract or providing or causing to be provided a certificate of coverage, Contractor is representing to Owner that all employees of the Contractor who will provide services on the Project will be covered by worker's compensation coverage for the duration of the Project, that the coverage will be based on proper reporting classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier, or in the case of self-insured, with the Texas Worker's Compensation Commission. Providing false or misleading information may subject Contractor to administrative penalties, criminal penalties, civil penalties or other civil actions.

4.3.2 Amount of Insurance. Coverage shall be provided with a limit of not less than:

<u>Workers' Compensation:</u>	Statutory limits.
<u>Employer's Liability:</u>	
Bodily Injury by Accident	\$1,000,000 Ea. Accident
Bodily Injury by Disease	\$1,000,000 Ea. Employee
Bodily Injury by Disease	\$1,000,000 Policy Limit

4.3.3 Required Endorsements

- a. Notice of Cancellation or Material Reduction in Coverage, as required in 3.5, above.
- b. Waiver of Subrogation, as required in 3.6, above.

4.4 **RESERVED**

4.5 Installation Floater for Equipment Installation Only

4.5.1 Insureds. Insureds shall include:

- a. Owner, General Contractor and all Loss Payees and Mortgagees as Named Insureds; and
- b. subcontractors of all tiers in the Work as Additional Insureds.

4.5.2 Covered Property. Such insurance shall cover:

- a. all structure(s) under construction, including retaining walls, paved surfaces and roadways, bridges, glass, foundation(s), footings, underground pipes and wiring, excavations, grading, backfilling or filling;
- b. all temporary structures (e.g., fencing, scaffolding, cribbing, false work, forms, site lighting, temporary utilities and buildings) located at the site;
- c. all property including materials and supplies on site for installation;
- d. all property including materials and supplies at other locations but intended for use at the site;
- e. all property including materials and supplies in transit to the site for installation by all means of transportation other than ocean transit; and
- f. other Work at the site identified in the Contract to which this Exhibit is attached.

4.5.3 Form

- a. Coverage shall be at least as broad as an unmodified ISO Special form, shall be provided on a completed-value basis, and shall be primary to any other coverage insurance available to the insured parties, with that other insurance being excess, secondary and non-contributing.
- b. No protective safeguard warranty shall be permitted.
- c. Required coverage shall further include:

- | | | |
|------|------------------|---------------------------|
| i. | Agreed value | Included without sublimit |
| ii. | Replacement cost | Included |
| iii. | Theft | Included without sublimit |

4.5.4 Amount of Insurance. Coverage shall be provided in an amount equal at all times to the full replacement value and cost of debris removal for any single occurrence.

4.5.5 Deductibles. Deductibles shall not exceed \$5,000 per occurrence without the prior written consent of Owner:

4.5.6 Termination of Coverage. This insurance shall be maintained in effect, unless otherwise provided for in the Agreement Documents, until the earliest of the following dates:

- a. the date on which all persons and organizations who are insureds under the policy agree that it shall be terminated;

- b. the date on which final payment, as provided for in the Agreement to which this Exhibit is attached, has been made; or
- c. the date on which the insurable interests in the Covered Property of all insureds other than Contractor have ceased:

4.5.7 Waiver of Subrogation. The waiver of subrogation provision shall be endorsed as follows:

- a. A waiver of subrogation shall be provided in favor of all insureds.
- b. The waiver of subrogation provisions shall be endorsed as follows:

Should a covered loss be subrogated, either in whole or in part, your rights to any recovery will come first, and we will be entitled to a recovery only after you have been fully compensated for the loss.

4.6 **RESERVED**

5.0 **RESERVED**

6.0 **Evidence of Insurance**

6.1 Provision of Evidence. Evidence of the insurance coverage required to be maintained by the Contractor, represented by certificates of insurance, evidence of insurance, and endorsements issued by the insurance company or its legal agent, and must be furnished to the Owner prior to commencement of Work and not later than ten (10) days after receipt of the Notice of Intent to Award. New certificates of insurance, evidence of insurance, and endorsements shall be provided to the Owner prior to the termination date of the current certificates of insurance, evidence of insurance, and endorsements.

6.2 Form and Specifications. Such certificates of insurance and/or evidence of insurance shall specify:

- 6.2.1 The Owner as a certificate holder with correct mailing address.
- 6.2.2 Insured's name, which must match that on this Contract.
- 6.2.3 Insurance companies affording each coverage, policy number of each coverage, policy dates of each coverage, all coverages and limits described herein, and signature of authorized representative of insurance company.
- 6.2.4 Producer of the certificate with correct address and phone number listed.
- 6.2.5 Additional insured status required herein.
- 6.2.6 Amount of any deductibles and/or retentions.
- 6.2.7 Cancellation, non-renewal and material reduction in coverage notification as required by this Contract.
- 6.2.8 Designated Construction Project Aggregate Limits required herein.
- 6.2.9 Personal Injury contractual liability required herein.
- 6.2.10 Primary and non-contributing status required herein.
- 6.2.11 Waivers of subrogation required herein.
- 6.2.12 The certificate of insurance shall list all exclusions and limitations added by endorsement to the general liability insurance coverage

6.3 Required Endorsements. A general liability additional insured endorsement shall also be provided.

6.4 Failure to Obtain. Failure of any Owner Party to demand such certificate or other evidence of full compliance with these insurance requirements or failure of any Owner Party to identify a

deficiency from evidence that is provided shall not be construed as a waiver of the Contractor's obligation to maintain such insurance.

6.5 **Certified Copies.** Upon request of any Owner Party, the Contractor shall provide to the Owner a certified copy of all insurance policies required herein within ten (10) days of any such request. Renewal policies, if necessary, shall be delivered to the Owner prior to the expiration of the previous policy.

6.6 **Commencement of Work.** Commencement of Work without provision of the required certificate of insurance, evidence of insurance and/or required endorsements, or without compliance with any other provision of this Contract, shall not constitute a waiver by any Owner Party of any rights. The Owner shall have the right, but not the obligation, of prohibiting the Contractor or any subcontractor from performing any Work until such certificate of insurance, evidence of insurance and/or required endorsements are received and approved by the Owner.

7.0 **Insurance Requirements of Contractor's Subcontractors**

7.1 Insurance similar to that required of the Contractor shall be provided by all subcontractors (or provided by the Contractor on behalf of subcontractors) to cover operations performed under any subcontract Contract. The Contractor shall be held responsible for any modification in these insurance requirements as they apply to subcontractors. The Contractor shall maintain certificates of insurance from all subcontractors containing provisions similar to those listed herein (modified to recognize that the certificate is from subcontractor) enumerating, among other things, the waivers of subrogation, additional insured status, and primary liability as required herein, and make them available to the Owner upon request.

7.2 The Contractor is fully responsible for loss and damage to its property on the site, including tools and equipment, and shall take necessary precautions to prevent damage to or vandalism, theft, burglary, pilferage and unexplained disappearance of property. Any insurance covering the Contractor's or its subcontractor's property shall be the Contractor's and its subcontractor's sole and complete means or recovery for any such loss. To the extent any loss is not covered by said insurance or subject to any deductible or co-insurance, the Contractor shall not be reimbursed for same. Should the Contractor or its subcontractors choose to self insure this risk, it is expressly agreed that the Contractor hereby waives, and shall cause its subcontractors to waive, any claim for damage or loss to said property in favor of the Owner Parties.

8.0 **Use of the Owner's Equipment.** The Contractor, its agents, employees, subcontractors or suppliers shall use the Owner's equipment only with express written permission of the Owner's designated representative and in accordance with the Owner's terms and condition for such use. If the Contractor or any of its agents, employees, subcontractors or suppliers utilize any of the Owner's equipment for any purpose, including machinery, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of the Owner, the Contractor shall defend, indemnify and be liable to the Owner Parties for any and all loss or damage which may arise from such use.

9.0 **Release and Waiver.** The Contractor hereby releases, and shall cause its subcontractors to release, the Owner Parties from any and all claims or causes of action whatsoever which the Contractor and/or its subcontractors might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by the Contractor and/or its subcontractors pursuant to this Contract.

EXHIBIT B

FEDERAL COMPLIANCE REQUIREMENTS OF CONTRACTOR

- 1.0 This Project No. 128294 Entry Gate Repairs, The Tyler Nature Center is funded, in part, through a grant from the U.S. Department of Interior (DOI), Fish and Wildlife Service. The Contractor is responsible for being aware of and complying with applicable portions of the DOI Terms and Conditions. The following are hereby incorporated and made a part of the contract for all purposes:
- 2 CFR Part 25 Central Contractor Registration and Data Universal Numbering System
 - 2 CFR Part 25 --Universal Identifier and Central Contractor Registration
 - 2 CFR Part 170--Reporting Subaward & Executive Compensation Information
 - 2 CFR Part 170 Reporting Subawards and Executive Compensation
 - 2 CFR Part 170 Federal Spending Transparency Subaward and Compensation Data (*new*)
 - 2 CFR Part 1400 -- NonProcurement Debarment and Suspension
 - 2 CFR Part 1400 Governmentwide Debarment and Suspension (Nonprocurement)
 - 2 CFR Part 175--Award Term for Trafficking in Persons
 - 2 CFR Part 175 Trafficking Victims Protection Act of 2000
 - 43 CFR 12(A) Administrative and Audit Requirements and Cost Principles for Assistance Programs
 - 43 CFR 12(E) Buy American Requirements for Assistance Programs
 - 43 CFR 12(C) Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local
 - 43 CFR 12(F) Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, other Non-Profit and Commercial Organizations
 - 43 CFR 43 Governmentwide Requirements for a Drug-Free Workplace
 - 43 CFR 18 New Restrictions on Lobbying
 - 41 USC 6306 Prohibition on Members of Congress Making Contracts with Federal Government
- 2.0 The Contractor shall execute Standard Form 424D – *Assurances – Construction Programs* (attached.)
- 3.0 The Contractor shall adhere to the requirements of 15 CFR Part 26 and Executive Order 12549. The Contractor shall execute form DI-2010 – *Certifications Regarding Debarment, Suspension and Other Responsibility Matters, Drug-Free Workplace Requirements and Lobbying* (attached).
- 4.0 The Contractor shall adhere to the requirements of 2 CFR 1401, *Drug Free Workplace*:

DRUG-FREE WORKPLACE (MAY 2001)

(a) *Definitions.* As used in this clause—

“Controlled substance” means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812) and as further defined in regulation at 21 CFR 1308.11 - 1308.15.

“Conviction” means a finding of guilt (including a plea of *nolo contendere*) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes.

“Criminal drug statute” means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, possession, or use of any controlled substance.

“Drug-free workplace” means the site(s) for the performance of work done by the Contractor in connection with a specific contract where employees of the Contractor are prohibited from

engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

“Employee” means an employee of a Contractor directly engaged in the performance of work under a Government contract. “Directly engaged” is defined to include all direct cost employees and any other Contractor employee who has other than a minimal impact or involvement in contract performance.

“Individual” means an offeror/contractor that has no more than one employee including the offeror/contractor.

(b) The Contractor, if other than an individual, shall—within 30 days after award (unless a longer period is agreed to in writing for contracts of 30 days or more performance duration), or as soon as possible for contracts of less than 30 days performance duration—

(1) Publish a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor’s workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(2) Establish an ongoing drug-free awareness program to inform such employees about—

- (i) The dangers of drug abuse in the workplace;
- (ii) The Contractor’s policy of maintaining a drug-free workplace;
- (iii) Any available drug counseling, rehabilitation, and employee assistance programs;

and

(iv) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(3) Provide all employees engaged in performance of the contract with a copy of the statement required by paragraph (b)(1) of this clause;

(4) Notify such employees in writing in the statement required by paragraph (b)(1) of this clause that, as a condition of continued employment on this contract, the employee will—

(i) Abide by the terms of the statement; and

(ii) Notify the employer in writing of the employee’s conviction under a criminal drug statute for a violation occurring in the workplace no later than 5 days after such conviction;

(5) Notify the Contracting Officer in writing within 10 days after receiving notice under subdivision (b)(4)(ii) of this clause, from an employee or otherwise receiving actual notice of such conviction. The notice shall include the position title of the employee;

(6) Within 30 days after receiving notice under subdivision (b)(4)(ii) of this clause of a conviction, take one of the following actions with respect to any employee who is convicted of a drug abuse violation occurring in the workplace:

(i) Taking appropriate personnel action against such employee, up to and including termination; or

(ii) Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and

(7) Make a good faith effort to maintain a drug-free workplace through implementation of paragraphs (b)(1) through (b)(6) of this clause.

(c) The Contractor, if an individual, agrees by award of the contract or acceptance of a purchase order, not to engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance while performing this contract.

(d) In addition to other remedies available to the Government, the Contractor's failure to comply with the requirements of paragraph (b) or (c) of this clause may, pursuant to FAR 23.506, render the Contractor subject to suspension of contract payments, termination of the contract or default, and suspension or debarment.

5.0 The Contractor shall adhere to the requirements of 2 CFR Part 175, as follows:

I. Trafficking in persons.

a. *Provisions applicable to a recipient that is a private entity.*

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that the award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., "2 CFR part XX")].

b. *Provision applicable to a recipient other than a private entity.* We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at [agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., "2 CFR part XX")].

c. *Provisions applicable to any recipient.*

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

1. "Employee" means either:

- i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
- i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).
- (c) An agency may use different letters and numbers to designate the paragraphs of the award term in paragraph (b) of this section, if necessary, to conform the system of paragraph designations with the one used in other terms and conditions in the agency's awards.

6.0 The Contractor shall adhere to the requirements of Executive Order 13513, as follows:

ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING (AUG 2011)

(a) *Definitions.* As used in this clause—

"Driving"—

(1) Means operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.

(2) Does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

"Text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include glancing at or listening to a navigational device that is secured in a commercially designed holder affixed to the vehicle, provided that the destination and route are programmed into the device either before driving or while stopped in a location off the roadway where it is safe and legal to park.

(b) This clause implements Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, dated October 1, 2009.

(c) The Contractor is encouraged to—

(1) Adopt and enforce policies that ban text messaging while driving—

(i) Company-owned or -rented vehicles or Government-owned vehicles; or

(ii) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.

- (2) Conduct initiatives in a manner commensurate with the size of the business, such as—
- (i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - (ii) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- (d) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (d), in all subcontracts that exceed the micro-purchase threshold.

7.0 The Contractor shall adhere to the requirements of 43 CFR 12(E), as follows:

BUY AMERICAN ACT—CONSTRUCTION MATERIALS

- (a) The Buy American Act (41 U.S.C. 10) provides that the Government give preference to domestic construction material.

Components, used in this clause, means those articles, materials, and supplies incorporated directly into construction materials.

Construction material, as used in this clause, means an article, material, or supply brought to the construction site for incorporation into the building or work. Construction material also includes an item brought to the site pre-assembled from articles, materials or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, which are discrete systems incorporated into a public building or work and which are produced as a complete system, shall be evaluated as a single and distinct construction material regardless of when or how the individual parts or components of such systems are delivered to the construction site.

Domestic construction material, as used in this clause, means (a) an unmanufactured construction material mined or produced in the United States, or (b) a construction material manufactured in the United States, if the cost of its components mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all its components.

Components of foreign origin of the same class or kind as the construction materials determined to be unavailable pursuant to §12.810(a)(3) of 43 CFR part 12, subpart E shall be treated as domestic.

- (b) The contractor agrees that only domestic construction material will be used by the contractor, subcontractors, materialmen, and suppliers in the performance of this agreement, except for foreign construction materials, if any, listed in this agreement.

8.0 The Contractor shall adhere to the requirements of 43 CFR 18, as follows. Furthermore, in the event the Contractor is engaged in lobbying, the Contractor shall complete the form entitled Disclosure of Lobbying Activities (OMB 0348-0046).

APPENDIX A TO PART 18—CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

9.0 The Contractor shall adhere to the requirements of 41 USC 4712, as follows:

<p style="text-align: center;">CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS</p> <p style="text-align: center;">(APR 2014)</p> <p>(a) This contract and employees working on this contract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at <u>41 U.S.C. 4712</u> by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and FAR <u>3.908</u></p> <p>(b) The Contractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under <u>41 U.S.C. 4712</u>, as described in section <u>3.908</u> of the Federal Acquisition Regulation.</p> <p>(c) The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over the simplified acquisition threshold.</p>

10.0 The Contractor shall adhere to the requirements of 41 USC 6306, as follows:

<p style="text-align: center;">Prohibition on Members of Congress Making Contracts with Federal Government</p> <p>No member of or delegate to Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.</p>

TEXAS PARKS AND WILDLIFE

PREVAILING WAGE RATE DETERMINATION INFORMATION

Chapter 2258, Texas Government Code, Title 10 requires that state agencies, (including universities), cities, counties, independent school districts, and all other political subdivisions that engage in public works construction projects produce and include prevailing wage rate determinations in the project bidding and contract documents.

Chapter 2258 requires that the contractor who is awarded a contract by a public body and a contractor's subcontractor shall pay not less than the rates determined by such state agencies to workers employed for the execution of such work. Pursuant to Chapter 2258, Texas Parks and Wildlife has ascertained the following wages to be paid for the various classifications of workers, in the locality of this project. In determining these wages, TPWD has utilized the Prevailing Wage Rates as determined by the U.S. DOL in accordance with the Davis-Bacon Act.

See attached wage rate document.

General Decision Number: TX160145 01/08/2016 TX145

Superseded General Decision Number: TX20150145

State: Texas

Construction Type: Heavy

Counties: Bowie, Gregg and Smith Counties in Texas.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.15 for calendar year 2016 applies to all contracts subject to the Davis-Bacon Act for which the solicitation was issued on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.15 (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2016. The EO minimum wage rate will be adjusted annually. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/08/2016

SUTX2004-003 11/09/2004

	Rates	Fringes
Asphalt Distributor Operator.....	\$ 11.74	0.00
Asphalt paving machine operator.....	\$ 10.49	0.00
Asphalt Raker.....	\$ 8.58	0.00
Asphalt Shoveler.....	\$ 8.00	0.00
Broom or Sweeper Operator.....	\$ 8.47	0.00
Bulldozer operator.....	\$ 11.97	0.00
CARPENTER.....	\$ 12.59	0.00
Concrete Finisher, Paving.....	\$ 12.46	0.00
Concrete Finisher, Structures....	\$ 10.40	0.00
Concrete Paving Saw Operator.....	\$ 12.13	0.00
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel Operator.....	\$ 12.14	0.00
ELECTRICIAN.....	\$ 15.00	0.00
Flagger.....	\$ 7.61	0.00

Form Builder/Setter, Structures.....	\$ 9.57	0.00
Front End Loader Operator.....	\$ 10.78	0.00
Laborer, common.....	\$ 8.86	0.00
Laborer, Utility.....	\$ 11.39	0.00
MECHANIC.....	\$ 13.53	0.00
Motor Grader Operator Fine Grade.....	\$ 13.35	0.00
Motor Grader Operator Rough.....	\$ 13.34	0.00
Pavement Marking Machine Operator.....	\$ 10.56	0.00
Reinforcing Steel Setter.....	\$ 12.52	0.00
Roller Operator, Pneumatic, Self-Propelled.....	\$ 8.39	0.00
Roller Operator, Steel Wheel, Flat Wheel/Tamping.....	\$ 9.23	0.00
Roller Operator, Steel Wheel, Plant Mix Pavement.....	\$ 9.75	0.00
Scraper Operator.....	\$ 9.50	0.00
Servicer.....	\$ 10.00	0.00
Spreader Box operator.....	\$ 13.12	0.00
Tractor operator, Pneumatic.....	\$ 11.00	0.00
Traveling Mixer Operator.....	\$ 10.05	0.00
Truck driver, lowboy-Float.....	\$ 10.50	0.00
Truck driver, Single Axle, Heavy.....	\$ 13.13	0.00
Truck driver, Single Axle, Light.....	\$ 9.62	0.00
Truck Driver, Tandem Axle, Semi-Trailer.....	\$ 10.51	0.00
Work Zone Barricade Servicer.....	\$ 7.85	0.00

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

TEXAS PARKS AND WILDLIFE

AGREEMENT BETWEEN OWNER AND CONTRACTOR

STATE OF TEXAS

PROJECT NO. 128294

COUNTY OF TRAVIS

CONTRACT NO. _____

THIS AGREEMENT, made this _____ day of _____, 20__ by and between the STATE OF TEXAS, acting through the **TEXAS PARKS AND WILDLIFE DEPARTMENT**, hereinafter called the OWNER, and **INSERT CONTRACTOR COMPANY NAME**, hereinafter called the CONTRACTOR.

WITNESSETH: That for and in consideration of the payments and agreements hereinafter described, to be made and performed by the OWNER, the CONTRACTOR hereby agrees with the OWNER to commence and complete certain public works described as: **Project #128294 Entry Gate Repairs at The Tyler Nature Center, Smith County, Texas**, for the use and benefit of the OWNER as described in the Bidding and Contract Documents prepared by TEXAS PARKS AND WILDLIFE DEPARTMENT. The Contract Documents include all parts of this Invitation for Bid including, but not limited to, Specifications, Scope of Work, and Terms and Conditions for Project 128294. The Contract Documents are hereby incorporated by reference into this Contract Number _____.

In the event that there is a conflict, this contract and its attachments take priority over all other documents. Following the contract in order of priority are the Terms and Conditions, Invitations for Bids and Contract Documents, and Contractor's Bid.

The consideration to be paid by the OWNER to the CONTRACTOR for furnishing all the materials, supplies, machinery, equipment, tools, labor, superintendence, insurance, and other accessories and services necessary to complete the said Project in accordance with the Contract Documents is the not to exceed amount of _____ (\$xx,xxx.xx).

The CONTRACTOR hereby agrees to complete all work within **Thirty (30)** calendar days, commencing on the date specified in OWNER'S written "Notice to Proceed." Time is of the essence with this contract.

The CONTRACTOR further agrees to comply with applicable statutes governing construction contracts including the provisions of V.T.C.A., Texas Government Code, Title 10, Subtitle F, Chapter 2253 requiring Payment Bonds; and to comply with all of the Terms and Conditions of this contract.

Payments by OWNER shall be warrants issued by the Comptroller of Public Accounts out of monies appropriated to the Texas Parks and Wildlife Department for such purpose and shall be made upon OWNER'S acceptance of all portions of work as prescribed in the Specifications.

The dispute resolution process provided for in Tex. Gov't Code, Chapter 2260, and the procedures provided in Title 31, Part 2, Chapter 51, Subchapter J of the Texas Administrative Code shall be used by the Owner and the Contractor to attempt to resolve any claim for breach of contract in an amount less than \$250,000.00 made by the Contractor, that is not resolved under procedures described throughout the Terms and Conditions of the Contract. Contract disputes for a claim of \$250,000.00 or more shall be governed by Civil Practice and Remedies Code, Chapter 114.

The venue of any suit brought for any breach of this Contract is hereby fixed in any court of competent jurisdiction in Travis County, Texas. All payments under this Contract shall be due and payable in Travis County, Texas.

The Contractor hereby assigns to Owner any and all claims for overcharges associated with this Contract which arise under the antitrust laws of the United States 15 U.S.C.A. SEC. 1 et. seq. (1973).

This Agreement is subject to cancellation, without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature or otherwise made available to the Texas Parks and Wildlife Department for the specified services under this Agreement.

The said parties for themselves, their heirs, successors, executors, administrators, and assigns, do hereby agree to full performance of the covenants herein contained.

IN WITNESS WHEREOF, the parties to these presents have executed this Contract in two (2) counterparts, each of which shall be deemed an original, in the day and year first above written.

CONTRACTOR:

OWNER: TEXAS PARKS AND WILDLIFE DEPARTMENT

By: _____

By: _____

Title

Title

Date

Date

TEXAS PARKS AND WILDLIFE
CONTRACTOR'S FINAL PAYMENT AFFIDAVIT

STATE OF TEXAS

PROJECT NUMBER 128294

COUNTY OF TRAVIS

CONTRACT NUMBER _____

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared

who being duly sworn, on oath, says that he/she is a duly authorized representative of

CONTRACTOR,
and that all terms of the Contract for the completion of certain public works described as

PROJECT NO. 128294 ENTRY GATE REPAIRS AT THE TYLER NATURE CENTER, SMITH COUNTY, TEXAS

have been satisfactorily completed and that ALL sums of money for payrolls, bills for material and equipment, and other indebtedness connected with the Work for which Owner or its property might in any way be responsible, to the best of his/her knowledge and belief, have been paid or will be paid or otherwise satisfied within ten days after receipt of final payment from the Owner, or within the period of time required by Title 10, Texas Government Code, Section 2251.022. Payments not made in full at the date of this affidavit are listed below.

Affiant hereby waives all claims against the Owner. (List any exceptions):

Affiant agrees to indemnify and hold Owner harmless from any liens, debts or obligations which arise as a result of labor or materials provided by or through Affiant to the project. Affiant further agrees to indemnify and hold harmless all real property on which the improvements were constructed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Affiant to the project.

Final payments to subcontractors for labor and/or materials which are pending or disputed as of the date hereof are:

<u>Individual or Company Name</u>	<u>Mailing Address</u>	<u>Amount Owed</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

INSTRUCTIONS: Affidavit must be signed by an individual owner, or partner in a partnership, or by a person authorized by bylaws or Board of Directors to sign for a corporation. If Contractor is a joint venture or partnership of individuals, either may sign, but if a joint venture in which a corporation is a party, separate affidavits must be executed by each corporation and by each individual owner or partnership. In the event subcontractors, laborers, or materialmen have not been paid in full, Contractor shall list hereon the amount owed and the name and address of each subcontractor, laborer, or materialman to whom such payment is owed. Add additional pages if required.

Signature

Title

Sworn to and subscribed before me this _____ day of _____ 20__

(SEAL)

Notary Public in and for
_____ County, Texas

TECHNICAL SPECIFICATIONS

STATEMENT OF WORK: REPLACE VEHICLE GATE OPERATORS AND CONTROLS

Project Location: South Gate

Tyler Nature Center

11998 FM 848 (Old Bascom Road)

Tyler TX 75707-5238

- 1. General Project Description.** Demolish existing swing gate operators (2ea), controller, and associated control devices including wiring and provide/install new commercial gate operators, controller, and associated control devices complete with wiring and remote openers as a complete functioning working system.
- 2. Demolition.** Demolish the existing swing arm gate operators (2ea), the controller with Knox Box, wireless entry keypad and post, the vehicle exit light beam sensor and post, and the existing wiring between these equipment items. TPWD will salvage the existing gate controller and operators, keypad and light beam device for use as repair parts at other facilities. Store salvaged items off the ground at a Nature Center location designated by Larry LeBeau, TPWD Facility Manager. Remove and dispose all other demolished items or other debris from the Tyler Nature Center.
- 3. Gate Operators.** Provide and install, as a fully functioning system, new swing arm gate operators with controller, with heavy duty, commercial grade, chain driven, 120V with DC Battery operation, LiftMaster Model CSW24UDC or approved equal. The battery back-up must be capable of 400 cycles on battery only operation. The new swing arm operators shall be mounted on new concrete bases under this contract.
 - a. General Gate Operations.** Entry into the Nature Center shall be by remote button controllers or keypad. The gates shall open and remain open for set duration in seconds- duration to be variable. Exiting shall be by remote sensor sensing the vehicle (only vehicles- no pedestrians or animals) approach. The gates are to remain open for the set duration in seconds. There will be no detection loops to guard against the gates closing on vehicles or trailers still in the entry area.

Under normal conditions, the gates shall be programmed to remain open during business hours.
 - a. Programming.** The controller must be programmable for a 7 day week operation, with automatic open and close times. The gates will remain open during normal business hours on weekdays.

The controller shall be capable to accept the future addition up to three ground detection loops.

The controller must be capable of being programmed or programming remote controllers for gate openings.

The controller shall be capable of variable timed gate closing in seconds- durations to be set or programmed by the Tyler Nature Center Manager.

(1) PROPOSAL OPTION 1: Programming. Provide an additive cost to provide remote wireless programming of the controller gate openings/closings to facilitate special events and holidays during the year. Two remote programming devices will be required- one for the facility manager and the second for a spare and/or acting manager.

b. Entry Access. Entry shall be made by the use of remote wireless button controllers and one post mounted keypad.

(1) Entry Keypad. The keypad shall be mounted on an L-shaped non-corrosive metal post supported from a new concrete base. The post shall project the keypad out to facilitate punching keys with an outstretched arm from a vehicle. The keypad height shall minimize damage from vehicle side mirrors. The keypad or keypad keys shall be lighted or illuminated for nighttime use.

Provide a new underground conduit with power to the new keypad. The keypad should be battery powered for 24/7 use but provided with power to recharge the batteries- eliminating recurring maintenance.

(2) Remote Controls.

(a) PROPOSAL ADDITIVE OPTION 1: Remote Control Opener. Provide an additive unit cost with batteries and visor clip included for battery powered remote button controller to open the gate for vehicle entry. The device shall be designed to fasten to the vehicle visor. The remote will be purchased directly by the TPWD Division or employees on an individual unit basis.

(b) PROPOSAL ADDITIVE OPTION 2: Remote Controls Opener Fob. Provide an additive cost per unit with batteries included for TPWD Divisions or individuals to purchase small battery powered remote controllers designed to be attached to vehicle key rings.

c. Fire Department Entry Access. Provide a new Knox Box with lock keyed to the local fire department keying to allow emergency access. The Knox Box shall be hard wired to the controller and may be either push button or key operated- but shall not rely on a battery to open the gates.

d. Vehicle Exiting. Provide a vehicle exit sensor system to open the gates to allow vehicles to exit the nature center. The type of sensor may be pressure type, light beam breaking, magnetic or other technical design. However, in no case; the sensor shall not initiate gate openings for pedestrians or animals.

The sensor shall be mounted on a non-corrosive post supported by a concrete base.

4. Additional Requirements.

a. Concrete Bases. The concrete bases shall be 3,000 psi (Sakrete permitted) and reinforced with #4 bars for temperature stresses. The concrete pad shall be at least 8" thick with 4" above grade. The bases shall be formed for smooth sides and be 6" wider than the item being supported in both planes.

NOTE: Electrical conduits for the new bases shall stub up in the concrete.

b. Existing Electrical Conduits. The existing underground electrical conduits shall be used unless the stub up locations are not acceptable. **NOTE:** Electrical conduits for the new

bases shall stub up in the concrete.

c. Reflective Markings. All new posts and equipment shells next to the roadway shall be marked with yellow or white reflective tape for both directions of travel.

d. Close Out Actions.

(1) Owner's Manual. Provide three bound hard copy and three digital Owner's Manuals providing the gate equipment installation, maintenance, operations and programming instructions from the manufacturers. This includes the gate equipment product and catalog literature with any parts lists.

(2) Warranty. Provide a warranty certificate providing a warranty for parts and materials for one year starting on the date of the final inspection and system acceptance. Any manufacturer warranties that exceed one year must be submitted with the warranty separately. The warranty must include contact information for service work to be requested and scheduled.

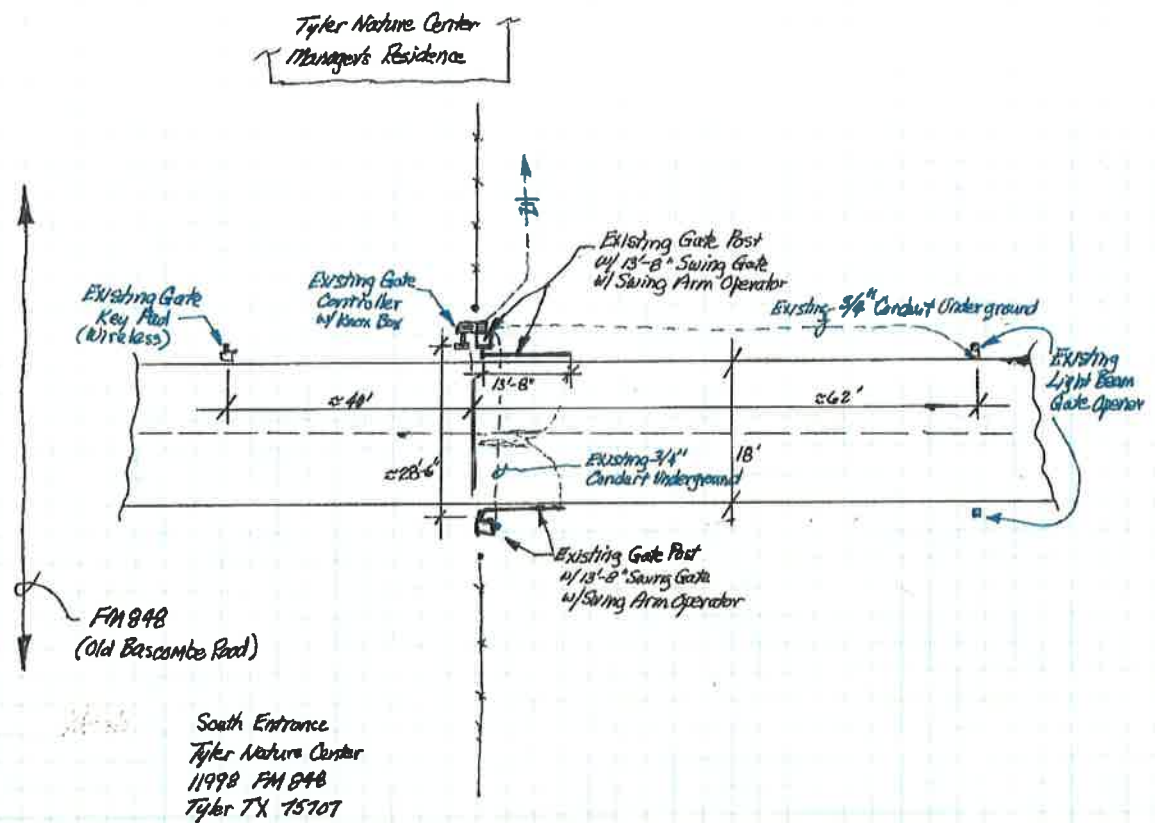
(3) Training. The Contractor will train the Nature Center Manager and up to three additional personnel to operate, maintain and program the gate system for at least one hour after the system installation is complete.

(4) Inspection. TPWD will conduct periodic inspections during the installation but will require a final acceptance inspection. The Contractor will notify the TPWD Inspector with at least five (5) workday notice before the inspection is needed. Any punch work corrections must be completed within 30 calendar days.

4. Additional Information.

a. Completion. All work and final payment must be completed not later than 1 July 2016.

b. Existing Gate. See the existing conditions for the existing gate operator system in the following sketch and photos.



Sketch #1: Gate Location Sketch and General Distances (NOT TO SCALE)

Existing Gate and Gate Operator System Photos



Existing Entry Keypad



Existing Gates w/Post Mounted Controller



Existing Exit Light Beam Sensor



Existing Gates- Looking Out



Existing Gate- Looking Out



Existing Gate - Operator & Conduit Stub Up



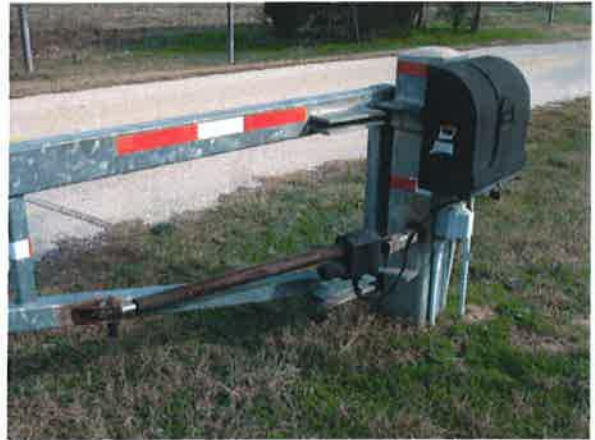
Existing Controller Post & Conduits



Existing Gate- Another View



Existing Gate Swing Arm Hinge & Connection



Existing Gate- Other Side